Supreme Court, U.S.
FILED

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No.

In the

Supreme Court of the United States

EAST LAKE METHODIST EPISCOPAL CHURCH, INC., a Delaware corporation and a Delaware Religious corporation; JOHN W. H. BAILEY, VERNON G. BAILEY, JR., MAE BAILEY, RUTH HARRIS, and NAOMI BAILEY,

Petitioners,

versus

TRUSTEES OF THE PENINSULA-DELAWARE ANNUAL CONFERENCE OF THE UNITED METHODIST CHURCH, INC., a corporation of the State of Delaware, Plaintiffs Below, Appellees, and THOMAS J. EASTBURN, ESQUIRE, R. TAYLOR CLOUD, SUSAN KEIRN KESTER, MARK M. PRUETT-BARNETT, JAMES T. SEYMOUR and JOHN HOLDEN,

Respondents.

On Petition for Writ of Certiorari to the Supreme Court of the State of Delaware

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PETITION FOR A WRIT OF CERTIORARI

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88 pp

QUESTIONS PRESENTED FOR REVIEW

This lawsuit involves the ownership rights to real property, a church and parsonage, and personal property titled in the name of East Lake Methodist Episcopal Church, Inc. The dispute herein is not to be of an ecclesiastical nature, but the state court classified it as one. The Delaware courts have crossed over the boundary between church and state and have infringed on the Petitioner's First Amendment Rights of freedom of religion in interpreting the "general church authority" and imposing an injunction that gives the Appellee's the use of Petitioner's property. If this Court does not accept this Petition, then the Delaware Courts will be freely giving mother churches interests in property that is different than the plain language of the deeds. The Delaware Courts have disregarded the neutral principles of law analysis resulting in a conveyance of interest in real and personal property which violates the Delaware and United States Constitution. This Court must clarify the difference of cases that fall into the category of "ecclesiastical" in nature and those that are of general principles of neutral law.

I. WHETHER THE DELAWARE SUPREME COURT VIOLATED THE PETITIONER'S FIRST AMENDMENT RIGHTS OF FREEDOM OF RELIGION BY INTERFERING WITH THE GENERAL CHURCH'S AUTHORITY AND DECIDING WHO IS ENTITLED TO EXERCISE OWNERSHIP AND CONTROL OVER REAL AND PERSONAL PROPERTY AND DIRECTING THE DISCONTINUANCE OF CHURCH SERVICES, DESPITE THE OBJECTION OF THE LOCAL CONGREGATION AND THE CLEAR UNAMIGUOUS LANGUAGE OF THE DOCUMENTS?

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The decision of the Court of Chancery of the State of Delaware in and for New Castle County is set forth in the Appendix, p. 1a and is reported at 731 A.2d 798. The opinion of the Delaware Supreme Court is set forth in the Appendix, p. 26a and is unreported.

STATEMENT OF THE BASIS OF JURISDICTION OF THE SUPREME COURT

The statutory provision for this Court's jurisdiction is 28 U.S.C. Section 1254. The Court of Chancery of the State of Delaware in and For New Castle County issued its Decision in this case on February 13, 1998. An appeal was filed to the Delaware Supreme Court. The Supreme Court affirmed the Decision. Panel rehearing and rehearing en banc were timely requested. Rehearing was denied on June 30, 1999. This Petition was timely filed within 90 days of the panel rehearing denial, and is thus timely. Justice William K. Suter allowed the Petitioner's application for an extension of time to file their brief from September 29, 1999 to November 26, 1999.

CONSTITUTIONAL, STATUTORY AND ORDINANCE PROVISIONS INVOLVED IN THIS CASE

First Amendment of the United States Constitution.

Religious and Political Freedom.
Congress shall make no law respecting an establishment of religion, or prohibiting the free

exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government or a redress of grievance.

Article I of the Delaware Constitution (1897).
Freedom of Religion

Section 1: No power shall or ought to be vested in or assumed by any magistrate that shall in any case interfere with, or in any manner control the rights of conscience, in the free exercise of religious worship, nor a preference given by law to any religious societies, denominations, or modes of worship.

Delaware Code. Title 8. Corporations.
Section 122.

Every corporation created under this chapter shall have power to:
...(4) Purchase, receive, take by grant, gift, devise, bequest or otherwise, lease, or otherwise acquire, own, hold, improve, employ, use and otherwise deal in with real or personal property, or any interest therein, wherever situation, and to sell, convey, lease, exchange, transfer or otherwise dispose of, or mortgage or pledge, all or any of its property and assets, or any interest therein, wherever situated;
...(8) Conduct its business, carry on its operations and have offices and exercise its powers within or without this State;...

Section 141.

> ...(e) A member of the board of directors, or a member of any committee designated by the board of directors, shall, in the performance of his duties, by fully protected in relying in good faith upon the records of the corporation and upon such information, opinions, reports or statements presented to the corporation by any of the corporation's officers or employees, or committees of the board of directors, or by any other person as to matters the member reasonably believes are within such other person's professional or expert competence and who has been selected with reasonable care by or on behalf of the corporation...

STATEMENT OF THE CASE

On September 13, 1995, East Lake Methodist Episcopal Church[1], the Petitioner, was sued by the Trustees of the Peninsula-Delaware Annual Conference of the United Methodist Church, the Appellee, in the Court of Chancery of the State of Delaware.

A brief history of the Petitioner's ownership of property is necessary to support their petition. On January 10, 1892, the Petitioner filed the appropriate records to become known as the "Lake Methodist Episcopal Church. Later that same year, the Petitioner acquired two parcels of real estate, which collectively became the lot upon which the church and parsonage are situated. In 1905, two Certificates of Incorporation were filed with the Recorder of Deeds which

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[1] John W.H. Bailey, Vernon G. Bailey, Jr., Mae Bailey, Ruth Harris, Dorthy Hilyard, Elmer Axleson, Naomi Bailey, Irene Robbins and Judy Burns were also named as Defendants.

appeared to reflect the formation of a religious society or corporation that could also own, buy, sell, acquire, etc., personal and real property. The only reference to a predecessor of the Appellee is the acknowledgment of a common spiritual enterprise. Whenever the Petitioner bought, sold or mortgaged property, they never sought the permission or involvement of the Appellee. The only involvement Appellee had with the Petitioner was the occasional use of one of the former's ministers; however, the Petitioner would pay for the costs. On or about June 11, 1995, the Appellee passed a resolution for the discontinuance of the Petition. On July 1, 1995, without a court order, the Appellee gained entry to the Petitioner'' property and seized religious relics and church records and deconsecrated the church. The deconsecration was intended by the Appellee to prevent the property from being further used as a house of worship. The Appellee had no intention to use the property as a house of worship. Despite the Appellee's acts, the Petitioner continued to serve its community.

In their Complaint, the Appellee sought injunctive relief to secure ownership rights to the Petitioner's real property, a church and parsonage, and personal property located on the site of the church.

On September 16, 1996, the Chancery Court permitted the Petitioner to continue to use and control the property, including permission to expend funds for its maintenance and upkeep. However, the court enjoined the Petitioner from conveying the property, making extraordinary expenditures, and making extraordinary investments.

On March 6, 1997, the Petitioner filed an Answer and Counterclaim to the Appellee's Complaint and also filed a

Third Party Complaint against Thomas J. Eastburn, Esquire, R. Taylor Cloud, Susan Karen Kester, Mark M. Pruett-Barnett, James T. Seymour and John Holden. The Petitioner wanted to quiet title to their real and personal property, restore items of personal property and church records taken from the Petitioner, and be awarded damages for wrongful interference and trespass.

On July 15, 1999, the Petitioner and Appellee filed Cross-Motions for Summary Judgment. By memorandum opinion on February 13, 1998, the Petitioner's motion was denied and the Appelle's motion was allowed.

On April 6, 1998, the Petitioner filed a Notice of Appeal with the Delaware Supreme Court appealing the entry of the preliminary injunction, the opinion of the February 13th order, the decision of March 5, 1998 on reargument/clarification, the entry of a permanent injunction against the Petitioner, summary judgment in favor of the Appellee, the denial of the Petitioner's motion for summary judgment and dismissal of the third party complaint.

The Supreme Court affirmed the Decision. Panel rehearing and rehearing en banc were timely requested but denied on June 30, 1999.

The Petitioner has filed a Petition for Certiorari to the United States Supreme Court based upon the issues and argument presented herein.

REASONS FOR GRANTING THE WRIT

I. THE DELAWARE SUPREME COURT VIOLATED THE PETITIONER'S FIRST AMENDMENT RIGHTS OF FREEDOM OF RELIGION BY INTERFERING WITH THE GENERAL CHURCH'S AUTHORITY AND DECIDING WHO IS ENTITLED TO EXERCISE OWNERSHIP AND CONTROL OVER REAL AND PERSONAL PROPERTY AND DIRECTING THE DISCONTINUANCE OF CHURCH SERVICES, DESPITE THE OBJECTION OF THE LOCAL CONGREGATION AND THE CLEAR UNAMIGUOUS LANGUAGE OF THE DOCUMENTS.

By the clear language of the deeds and the Certificate of Incorporation, the Petitioner did not and never intended to give any property or ownership interest to the Appellee, a non-religious group. The Delaware Courts have failed to use the neutral principles of law, property law and corporate law, and instead interpreted the Book of Discipline in transferring to an implied trust a beneficial interest of Petitioner's property and imposing a vague injunction. By doing so, the state courts violated the federal and state constitutions of freedom of religion of a viable congregation.

A. Since the language of the deeds in question is clear and unambiguous, the neutral principles of law theory must be used to resolve the church property dispute without the use of the Book of Discipline.

The Delaware courts made a decision ecclesiastical in nature but alleged that they were using neutral principles of law. Even though the case was of one of first impression to the Delaware Supreme Court, they confused the principle of pure cases of civil law by using religious doctrine in their decision thereby violating state corporate statutes and both state and federal constitutions. Before the Delaware state courts use the decision as precedent and other churches in other states find the lower courts decision as controlling law, this Honorable court must eliminate the use of implied trusts in favor of "mother churches" when there is no language in the deeds or corporate documents which grants such an interest.

A state court must resolve church property disputes only on the basis of "neutral principles of law" without considering doctrinal matters such as the "ritual and liturgy of worship or the tenants of faith". *Jones v. Wolf*, 443 U.S. 595 (1979); *Presbyterian Church in the United States v. Mary Elizabeth Blue Hull Memorial Presbyterian Church*, 393 U.S. 440 (1969). Under a neutral principles approach, a civil court may consider, and resolve church property disputes on the basis of sources such as state statutes, church corporate charters and constitutions and the language of trusts, deeds and similar granting instruments. *Mother African Union First Colored Methodist Protestant Church v. Conference of African Union First Colored Methodist Protestant Church*, Del. Ch., C.A. No. 12055, Jacobs, V.C. (May 16, 1991) (*"Mother Church I"*).

Courts cannot resolve church property disputes by interpreting church doctrine and practice, such as the Book of Discipline of the United Methodist Church.[2] *Mother Church I,* at page 11; *St. Thomas v. Conference,* Del.Ch., C.A. No. 130006-NC, Steele, V.C. (December 11, 1995).

This Honorable Court stated in *Jones, supra,* that "the civil courts will be bound to give effect to the result indicated by the parties, provided it is embodied in some legally recognizable form. *Jones, at* 606. It was clearly not intended that civil courts consider speculative suggestions of intent by non-parties that allegedly took place over a hundred of years ago. For certainty and simple fairness, the Delaware courts have followed the Jones opinion and held that title to church properties is governed by the legal documents entered into between the parties to the conveyances (i.e. the donor and donee) and recorded for the benefit of future generations. *St. Thomas, supra.* The *Jones* opinion recognizes the application of neutral principles to lend certainty to the outcome of property disputes in church cases, just as there is certainty in secular property matters.

Moreover, the certainty of the four corners of the deed should not be disturbed by analysis of religious doctrine and ecclesiastical matters. Moreover, since there is no ambiguity, or any signs of fraud, duress or mistake, extrinsic evidence is barred.

See also Dickey v. Snodgrass, Co.App., 673 P.2d 51 (1983) where the court held that the deed by which the local church took title contained no reverter clause in favor of the

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[2] The Book of Discipline is a guide to the practice of Methodism and is largely a spiritual document. There is no evidence that the Petitioner ever approved, ratified or endorsed the Book of Discipline.

national denomination, and the local church owned the property free and clear of any claim by the national organization, notwithstanding the provisions of the Discipline.

The Petitioner does not argue that it has no relationship with the United Methodist Church, but they do contend that the Appellee corporation is not a religious corporation but a corporation utilized to manage nonreligious properties of the United Methodist Church. Why is the Delaware courts transferring religious property to a non-religious entity – clearly a violation of the Constitution because the courts are stripping a viable religious group of its interest in property. There is no abandonment or discontinuance of the Petitioner's worship, and to rule otherwise is the court's interpretation of the Book of Discipline when a religious group ceases. The Delaware courts decision is unconstitutional since it inquired into religious doctrine. *Eldership of the Churches of God v. Church of God at Sharpsburg, Inc.*, 396 U.S. 367 (1970). Also, the Book of Discipline does not provide a basis for the creation of an implied trust in favor of the Appellee in any of its member churches' properties Even though the Petitioner used the Appellee's ministers on occasion, this did not create an obligation under the Book of Discipline that the Appellee would automatically receive an ownership interest in any of Petitioner's properties.

In *Sharpsburg*, Justice Brennan, in a concurring decision stated that "a state may adopt any one of various approaches for settling church property disputes so long as it involves no consideration of doctrinal matters, whether the ritual and liturgy of worship or the tenets of faith...civil courts can determine ownership by studying deeds, reverter

clauses and general state corporation laws." *Id.* at 368, 370. In our case, the deed is clear and unambiguous that the corporate entity of the Petitioner owns the property with no reverter to the Appellee. Since this was the first case that the Delaware Supreme Court used the neutral principles of law approach, this Court must guide the state to a correct analysis.

Not every dispute involving church property is ecclesiastical in nature. A church may rent a car, buy property or engage in any number of civil transactions. The unique facts in this case are that the Appellee "deconsecrated" the Petitioner's premises so that it could not be used as a religious site. The dispute herein, therefore, simply "presents a question of civil law." *African Methodist Episcopal Church, Inc. v. John Wesley United Church, Inc.*, Del.Ch., C.A.No. 1167-K, 1994 WL 643178.

B. The Petitioner's Certificate of Incorporation and their history of buying and transferring property without the consent or transfer of beneficial interest in any document bars any implied trust in favor of the Appellee.

In Delaware, a corporation can only act in accordance with the powers granted to it by its certificate of incorporation, its bylaws, and the statute under which it was created. *Lawson v. Household Finance Corp.*, 17 Del.Ch. 343, 348-349, 152 A. 723, 726 (1930); *Davis v. Louisville Gas & Electric Company*, 16 Del.Ch. 157, 160, 142 A. 654, 656 (1928). According to its Certificate, the Petitioner can hold property in its own name without the intervention or conveyance of an interest in any property to the Appellee.

The Petitioner was originally incorporated in 1892 by filing in the New Castle County Recorder of Deeds. In its Certificate of Incorporation, there is language regarding the historical nature of the Petitioner's church, but there is no language regarding the following of the Book of Discipline. The courts confused the wording in the Certificate of Incorporation of "worshipping according to the religious, faith, doctrine, rules, discipline and usage of the Methodist Episcopal Church in the United States of America" with the Book of Discipline. How could the Delaware courts quote and use the Book of Discipline as authority in support of Appellee's position and establishing an implied trust without violating state statute? The Appellee was never mentioned in the corporate documents either. The sole basis relied upon the Delaware courts in finding an implied trust in favor of the Appellee was a reference to the Methodist Episcopal Church in the Petitioner's Certificate of Incorporation. As a matter of law, the Certificate of Incorporation does not establish the intent of the donor and donee under the real property deeds to establish a resulting trust in favor of a third party, such as the Appellee. *See, Bernson v. Koch*, Col App., 534 P.2d 334, 339 (1975).

The Petitioner, as its corporate entity, is the record title owner of two properties in the City of Wilmington, Delaware, at which it has conducted religious services and performed other religious activities. The two parcels were described as follows:

Parcel One

The church building often identified as "East Lake United Methodist Church," 30th and Tatnall Streets, Wilmington, Delaware. East Lake holds record title to this parcel by deed of The Brandywine Methodist

Episcopal Church, et.al., to East Lake Methodist Episcopal Church, Incorporated, deed dated January 2, 1906, and recorded at the Office of the Recorder of Deeds, New Castle County, Delaware at Deed Record P, Volume 20, Page 312.

Parcel Two

The parsonage for the local church, located on a parcel adjoining the above-described parcel. East Lake holds record title to this parcel by deed of Artisans' Savings Bank to East Lake Methodist Episcopal Church Incorporated, deed dated June 28, 1909, and recorded at the Office of the Recorder of Deeds, New Castle County, Delaware at Deed Record N, Volume 22, Page 201.

The Deeds are clear and unambiguous; there is no reference whatsoever in them to any connection with the Methodist Episcopal Church. At least twelve years later there is a "loose" reference in preambles to two certificates of incorporation indicating an intention to worship according to denomination rules. The state courts made no distinction between the Petitioner's status as a general corporation and its earlier status as a religious corporation. In its Certificate of Incorporation only the Trustees can approve and engage of property transfers; of course, the Trustees did not grant an interest in the property to the Appellee, so why should the courts do so? Are the Delaware courts attempting to transfer an interest in all property held by religious groups in favor of mother churches? Moreover, the Appellee is not even going to continue religious activity on the property.

The Delaware Courts attempted to distinguish their facts from *John Wesley*. The state courts stated that the original deed conveying the property to local trustees made no references to adherence to a larger church group or faith and that a loose affiliation at a later date with the hierarchical church and the subsequent execution of a partial conveyance of the property without the authorization of participation of the parent organization evidenced a lack of entitlement in the parent church. The implied trust doctrine was clearly forbidden in *Jones*.

In our facts, there is no record of any deed or instrument conveying any interest in the Petitioner's properties or that the Appellee or any affiliate was ever involved for over one hundred years in the purchase, sale and mortgage of real property by the Petitioner. The state courts completely disregard the *John Wesley* analysis. Also, the Delaware courts gave themselves a power to create an "implied trust" in favor of the Appellee upon all of the Petitioner's property. There is no reference to any "implied trust" in the Petitioner's Certificate of Incorporations. According to the documents, only the trustees can transfer or sell the property, not the Appellee and not the Delaware courts. A logical reading of the Certificate of Incorporation, as a whole, indicates that the petitioner incorporated for the purpose of religious worship in accordance with the doctrine of a particular denomination; however, nowhere in the certificate do the incorporators mention the Appellee or the Book of Discipline. Even if there is a reference to the Methodist Church, there is nothing in the certificate that provides for real property to be held in trust for the uses and purposes of the Appellee. Since the Appellee did not even exist as a legal entity until 1941, it is doubtful that the Petitioner's Certificate of Incorporation would hold property

in trust for the Appellee. Also, the Petitioner's past practices with respect to the acquire and disposition of its real property without the consent or aide, or an alleged misconduct, of the Appellee favors the Petitioner's position. The Petitioner's action and the Appellee's inaction suggest that the understood meaning of the Petitioner's Certificate of Incorporation was that a transfer of property belonging to the Petitioner required a vote of their trustees, and any property acquired was to be for their sole use and purpose.

Moreover, the courts completed disregarded the fact that the Petitioner incorporated many years before the Appellee's incorporation. *See Mother AUFCMP Church v. Conference of AUFCMP Church*, No. 12055, 1991 WL 85846 (Del.Ch. May 16, 1991). How could the Petitioner abide by the powers in their Certificate of Incorporation and statutory law of corporations and then be undercut of its powers and property rights by another corporation that did not exist at the time of its creation?

Other states have also supported the *John Wesley* opinion. In *Dickey v. Snodgrass*, Col.App., 673 P.2d 51 (1983), the deed by which the local church took title contained no reverter clause in favor of the national denomination, and the Court held that the local church owned the property free and clear of any claim by the national organization, notwithstanding the provisions of the Discipline. *Id.*

There is no reason to modify the *John Wesley* ruling. However, this Court must reemphasize that where the language of the deed is clear and concise, the neutral principles of law must control and any form of alienation to an "implied trust" is in direct contrast with First Amendment

rights. The decision of the Supreme Court of Delaware is unconstitutional. There is no state statute that requires real property of a local church to be held in trust for its denomination church or any alleged related group. Since there is no statute, the courts decision was unconstitutional.

Therefore, this Honorable Court must resolve the conflict between the facts in our case on appeal to those in *John Wesley, St. Thomas and Mother Church I.* A neutral principle analysis should only focus upon the wording in the Deed, not upon the wording of the Book of Discipline.

C. By granting a beneficial interest to the Appellee and imposing a restrictive injunction upon the Petitioner's property, the Delaware courts have violated the Petitioner's constitutional rights of freedom of religion.

The Supreme Court's opinion creates significant constitutional problems under the First Amendment of the United States Constitution and Article I of the Delaware Constitution of 1897 guaranteeing freedom of religion. Under the opinion, a Delaware Court is now empowered to order a local church to cease religious worship so that its properties may be disposed of for a commercial purpose by a third party not engaged in religious worship. Also, the Petitioner continues to worship on the premises. By granting an interest to a non-religious third party, in violation of state law, the courts have infringed upon the Petitioner's freedom to assemble and freedom of religion.

The "primary advantages of the neutral principles approach are that it is completely secular in operation, and yet flexible enough to accommodate all forms of religious

organization and policy...The method relies exclusively on objective, well-established concepts of trust and property law...It thereby promises to free civil courts completely from entanglement in questions of religious doctrine, polity, and practice." *Jones*, at 603.

Since the Delaware courts misconstrued the neutral principles approach, they violated its very purpose – not to use religious doctrine in determining the viability of the Petitioner's ownership interest in property. If the Delaware courts are allowed to interpret the Book of Discipline, then their acts are constitutionally inappropriate. *St. Thomas I.*, at 3.

Also, the decision of the Delaware court, depriving Petitioner's of rights under Delaware's constitution, statutes, and rules, is in conflict with *Cummings v. Missouri*, 71 U.S. [4 Wall.] 277 (1867).

Moreover, the injunction must remain in full force and effect until all the issues have been resolved. This Honorable Court must clarify the injunction issued below that the Petitioner may continue to worship and use its properties for that purpose unless and until it abandons any form of worship. At that point, the courts would need to look at the Certificate of Incorporation and by-laws as to what would happen with its properties in such an event. Anything else is an unconstitutional infringement of the Petitioner's right to practice freedom of religion under the First Amendment of both Delaware's and the United State's Constitution.

The Chancery Court ruled that "all of the property, real and personal, held by the Defendant is held in trust for the Plaintiff, United Methodist Church. " The decision

refused to offer any view as to the effect of the purported discontinuance upon the legal title of the Petitioners. Neither of the opinions below addressed the self-help practiced by the Appellee prior to the initiation of litigation in stealing property that lawfully was owned by the Petitioner in its own name and for its own benefit. The Supreme Court stated that the Chancery Court ruled that the general church was entitled to exercise ownership and control over the real and personal property, directing the discontinuance of church services, despite the objection of the local congregation. However, later in its opinion, the Supreme Court found that the Chancery Court dismissed the Petitioner's counterclaim and third party claims "in view of the clear right of the Conference, acting through its agents and employees, to take possession of the church premises". How could the Delaware courts tell a non-religious organization to stop church services and take a church's property? The Petitioner is a viable place of worship; the size of the membership should not be an issue. The Appellee's self-help is a clear violation of the Petitioner's constitutional rights. The state courts is authorizing Appellee's self-help but at the same time imposing an implied trust upon the property. The injunction is vague and unconstitutional since the Petitioner continues to worship at the premises and the state courts are transferring its interests in real and personal property – an interest, as proven above, violates state statutes and the federal and state constitution.

The Petitioners respectfully request that this Honorable Court order that the Appellee may not continue its self-help since the Petitioner has legal title until further order and that a permanent injunction that forbids the Appellee any use of the Petitioner's property is in effect.

CONCLUSION

The Court should grant *certiorari* to review this important matter and reverse the Delaware Supreme Court's Opinion. The Petitioner asks that this Honorable Court clarify that under the injunction below it may continue to worship and use its properties for the purposes established under its Certificate of Incorporation without the interference of the Appellee and the latter's self-help to the Petitioner's property. Any other decision is an unconstitutional infringement of Petitioner's right to practice freedom of religion under the United States and Delaware's Constitution.

Respectfully Submitted,
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(Any footnotes trail end of each document)
731 A.2d 798

EAST LAKE METHODIST EPISCOPAL CHURCH, INC., a Delaware corporation and a Delaware Religious corporation; JOHN W. H. BAILEY, VERNON G. BAILEY, JR., MAE BAILEY, RUTH HARRIS, and NAOMI BAILEY, Defendants/Third-Party Plaintiffs Below, Appellants, v. TRUSTEES OF THE PENINSULA-DELAWARE ANNUAL CONFERENCE OF THE UNITED METHODIST CHURCH, INC., a corporation of the State of Delaware, Plaintiffs Below, Appellees, and THOMAS J. EASTBURN, ESQUIRE, R. TAYLOR CLOUD, SUSAN KEIRN KESTER, MARK M. PRUETT-BARNETT, JAMES T. SEYMOUR and JOHN HOLDEN, Third-Party Defendants, Below Appellees.

No. 158, 1998

SUPREME COURT OF DELAWARE

731 A.2d 798; 1999 Del. LEXIS 173

February 2, 1999, Submitted

May 26, 1999, Decided

COUNSEL:
Sherry Ruggiero Fallon, Esquire, Tybout, Redfearn & Pell, Wilmington, Delaware and Walter S. Rowland, Esquire, Wilmington, Delaware, for Appellants.

Thomas J. Eastburn, Esquire, Allmond and Eastburn, Wilmington, Delaware and Stephen F. Dryden, Esquire, Robinson and Grayson, P.A., Wilmington, Delaware, for Appellees.

JUDGES:
Before VEASEY, Chief Justice, WALSH, HARTNETT, and BERGER, Justices and COOCH, Judge, * constituting the Court en Banc.

OPINIONBY:
WALSH

OPINION:

WALSH, Justice.
In this appeal from the Court of Chancery, we examine the legal standards that govern disputes over church property between local congregations and general ecclesiastical authorities. The Court of Chancery ruled that the general church authority was entitled to exercise ownership and control over the real and personal property, directing **[**2]** the discontinuance of church services, despite the objection of the local congregation. We conclude that the Court of Chancery correctly applied neutral principles of law in recognizing the **[*801]** claim of the general church authority. Accordingly, we affirm.
I
This matter commenced in the Court of Chancery with the filing of a complaint by the Trustees of the Peninsula-Delaware Annual Conference of the United Methodist Church, Inc. ("the Conference") against East Lake Methodist Episcopal Church, Inc., a Delaware corporation and a Delaware religious corporation ("East Lake") and

certain of its individual trustees (collectively "East Lake"). The Conference sought injunctive relief to secure possession and control of the church property, including a church building, a parsonage, and certain personalty located on the premises, situated at 30th and Tatnall Streets in the City of Wilmington, the site for many years of the East Lake United Methodist Church. The basis for the Conference complaint was a resolution adopted on June 11, 1995 at the 211th Session of the Conference authorizing the discontinuation of further religious services at East Lake and the transfer of control of the property **[**3]** to the Conference. The resolution was purportedly adopted pursuant to P 2549 of The 1992 Book of Discipline of the United Methodist Church' and was to be effective July 1, 1995.

2549 provides in pertinent part:
2. *Discontinuation,* a) When, in the judgment of the district superintendent in consultation with the appropriate agency assigned the responsibility of the conference parish and community development strategy, a local church should be discontinued, the district superintendent may recommend its discontinuation. Such a recommendation shall include recommendations as to where the membership (231) and the title to the property of the local church shall be transferred. On such recommendation that a local church no longer serves the purpose for which it was organized and incorporated (201-204), with the consent of the presiding bishop and of a majority of the district superintendents and the district Board of Church Location and Building of the district in which the action is contemplated, the Annual Conference may declare any local church within its bounds discontinued.
b) If a church has been discontinued by the Annual Conference without direction concerning the disposition

[4]** of property, the property shall be disposed of as if it were abandoned local church property (2549.3).

3. *Abandonment.* When a local church property is no longer used, kept, or maintained by its membership as a place of divine worship, the property shall be considered abandoned, and when a local church no longer serves the purpose for which it was organized and incorporated (201-204), with the consent of the presiding bishop, a majority of the district superintendents, and of the district Board of Church Location and Building, the Annual Conference trustees may assume control of the property.

The individual defendants, acting as an apparent majority of the trustees of East Lake, resisted transfer of church property to the Conference and filed a counterclaim and third party complaint against East Lake's former pastor, counsel for the Conference and other Conference officials alleging trespass and wrongful interference with, and removal of, church property. The Court of Chancery permitted limited use of the church property, including the conducting of religious services, on an interim basis pending a final determination of entitlement. Ultimately, after extensive discovery and **[**5]** briefing on cross-motions for summary judgment, the Court of Chancery concluded that equitable title to the disputed church property lay with the Conference and permanently enjoined the defendant trustees from interference with the Conference's plan to dispose of the church property. The court also summarily dismissed East Lake's counterclaims and third party complaint. This appeal followed.

II

The East Lake United Methodist Church is more than 100 years old, and one must look to its history to determine its present legal status. That history begins **[*802]** in 1892 when, as recited in an untitled document filed in the New Castle County Recorder of Deeds, certain individuals were

elected trustees on January 10 of that year, for the purpose of forming a church to be known as East Lake M. E. Church, located at 30th and Tatnall Streets in Wilmington. Also in 1892, East Lake acquired two parcels of land. The first recorded deed, dated March 19, 1892, recites the grantee as "East Lake M. E. Church" and describes the property on which the current church structure is located. The second deed, dated November 9, 1892 from George W. Booker and Annie E. Booker, his wife, reflected the conveyance of [**6] a 25 feet by 100 feet parcel adjoining the first parcel. The grantee in this deed is "East Lake Methodist Episcopal Church."

In 1905, East Lake found it necessary to revisit its 1892 incorporation efforts, and subsequently filed two incorporation certificates with the Recorder of Deeds. One, dated December 5, 1905, is titled "A Certificate of Incorporation of East Lake Methodist Episcopal Church" and is an attempt at incorporation under 27 Del. C. § 101, the Religious Societies Act. Apparently, the congregation was attempting to cure the defective incorporation filing of 1892. The second certificate dated December 19, 1905, is titled "Certificate of Incorporation of East Lake Methodist Episcopal Church, Incorporated," and provides that the corporation is organized pursuant to general corporation law. The language of the December 5, 1905 Certificate of Incorporation provides that for the purposes of being incorporated, "such additional notices were given according to the manner presented in the discipline, rules and regulations of the Methodist Episcopal Church with which this said congregation is connected." Similarly, the Certificate of Incorporation under the general corporation [**7] law states that "a congregation of Christians having been organized ... for the purpose of worshipping Almighty God, according to the religion, faith, doctrines, rules,

discipline, and usages of the Methodist Episcopal Church in the United States of America...."
On January 2, 1906, a confirmatory deed was recorded for the parcels acquired in 1892 with "East Lake Methodist Episcopal Church, Incorporated" as grantee, for the purpose of confirming and making good the title that may have been questionable because of the defective incorporation. On June 28, 1909, East Lake Methodist Episcopal Church, Incorporated acquired an additional parcel which adjoined the property already held. The parsonage is located on this property. Finally, in March 1928, East Lake Methodist Episcopal Church, Incorporated acquired a parcel from Elizabeth W. Russell and Charles G. Russell which contained a restriction that the property be held

in trust for the use of the East Lake Methodist Episcopal Church, Incorporated, subject to the doctrines, law, usages, and ministerial appointments of the Methodist Episcopal Church, as from time to time established, made and declared, by the lawful authority of **[**8]** said Church; and if said property shall be sold or encumbered, the proceeds of the sale or encumbrance shall be applied to the use aforesaid: subject, however, to the provisions of the law of the Church relating to abandoned Church property.
East Lake also acquired certain property interests though testamentary grants. In 1946, the Church acquired property, not at issue here, granted to East Lake under the terms of a will which provided that the property be "given to East Lake Methodist Episcopal Church ... to be put in Trust and only the interest taken and used to defray Pastor's salary, and when East Lake Church ceases to be a Church ... it shall go to help worn out preachers in M.E. Churches." Similarly, in 1985 the Church received property from the will of Grace M. Green, which provided that the property was "to be used by the

governing body of said Church for general purposes...." The only other transaction involving [*803] church property which is of note involves a mortgage between East Lake and one of its trustees. On June 29, 1995, shortly before the discontinuation of East Lake became effective, a mortgage was executed by "East Lake Methodist Episcopal Church, Incorporated," [**9] in favor of Naomi H. Bailey, one of the individual defendant-trustees in the amount of $ 65,000, reciting the current church property and parsonage as collateral. This mortgage was not authorized by the Conference and was viewed by the Court of Chancery as questionable.

A

The United Methodist Church is a religious body that is the result of many years of evolution. Its predecessors include the Methodist Episcopal Church and the Methodist Church. The Methodist Church was formed by the merger in the 1930s of the Methodist Episcopal Church, the Methodist Episcopal Church, South and the Methodist Protestant Church. In 1968, the United Methodist Church was formed by the further union of the Methodist Church and the Evangelical United Brethren Church United Methodist Church. The United Methodist Church views itself as connectional in structure with supervision exercised by regional conferences. The Conference was incorporated on November 22, 1940, "to act in the capacity of trustee for the international religious denomination and organization now known as the Methodist Church...." Although it was incorporated under the name "Trustees of the Peninsula Annual Conference of the United Methodist [**10] Church, Inc.," in 1992 the Conference changed its name to "Trustees of the Peninsula-Delaware Annual Conference of the United Methodist Church, Inc." Reflective of its connectional structure, the Book of Discipline of the Methodist Episcopal Church (the

"Discipline") instructed churches to hold property in the corporate name according to statutes of the area and specified that the articles of incorporation provide that the "Society" shall be subject to the provisions of the Discipline. The Discipline also provided that the secular affairs of the corporation should be managed and controlled by a board of trustees, and that the corporation should have the power to acquire, hold, sell, and convey property. It further provided that all property acquired be deeded in the name of the corporation.

In addition to the legal documents supporting a connectional structure, the Conference presented evidence in the Court of Chancery of East Lake's affiliation with the United Methodist Church and the Conference. East Lake referred to itself as Eastlake United Methodist Church on the cover of its pamphlets for its 85th, 90th, 95th, and its 100th anniversary services. East Lake was mentioned in the **[**11]** excerpts from reports and minutes of the Conference in the years between 1889 and 1913. The Conference minutes of 1889. in the Reports of the Presiding Elders, described the "lot ... in East Lake Park" as an important development because of the growth in the area. East Lake made annual reports to the Charge Conference. East Lake also participated at the conference at which the discontinuation resolution was adopted, and planned and celebrated a 105th anniversary of the ministry. East Lake considered the discontinuation a "divorce" from the United Methodist Church.

B

The present strife was precipitated by the Conference's concern over the state of affairs and declining membership at East Lake. On June 26, 1994, there was an informational meeting to discuss the future of East Lake and its possible redevelopment, relocation, limited service or discontinuation. On August 2, 1994, a letter voicing concerns over East Lake

was sent from Dr. James Seymour, then Conference Superintendent, to the Members of District Board of Church Location and Building. This letter referred to the ability of **[*804]** East Lake to pay its pastoral obligations and its share of Charge responsibility and apportionments. **[**12]** In that same month, a meeting was held by the members of the Wilmington United Methodist District Board of Church Location and Building ("the Board") to discuss the situation. Although the Board expressed the view that the East Lake congregation should choose its future, the Board later advised the congregation of the problems facing the church and the Board's responsibility to review the status of any church whose membership drops below fifty.

In May of 1995, the Board again met with church members, at which time the Board indicated that it was going to recommend discontinuation. The Board's recommendation was ultimately adopted by the Conference and discontinuation of East Lake was authorized.

III

The Court of Chancery examined at some length East Lake's history and its affiliation with the Conference. The court acknowledged the need to defer to church tribunals in church property disputes involving ecclesiastical issues but noted that such deference does not preclude the application of neutral principles of law to determine ownership issues. After a thorough evaluation of the relationship between East Lake and the Conference, the court concluded that, while record title has remained **[**13]** with East Lake since the initial acquisition of the properties in dispute, East Lake's affiliation with, and membership in, a general denominational church organization created an implied trust for the benefit of the general church. The Court of Chancery took particular notice of the confirmatory deeds that refer, in turn, to the certificates of incorporation expressing affiliation with the Conference.

The court characterized an implied trust as one "for the maintenance and furtherance of the faith and creed of the denominational church at large." *Trustees of the Peninsula-Delaware Annual Conference of the United Methodist Church, Inc. v. East Lake Methodist Episcopal Church, Inc., 1998 Del. Ch. LEXIS 23, Del. Ch., C.A. No. 14530, 1998 WL 83033,* at * 5 (Feb. 13, 1998), *quoting Trustees of Pencader Presbyterian Church in Pencader Hundred v. Gibson, Del. Supr., 26 Del. Ch. 375, 22 A.2d 782, 787-88 (1941).* In its finding of an implied trust, the court placed particular emphasis on language from an earlier Delaware case, *St. Nicholas Ruthenian Greek Catholic Church v. Bilanski, Del. Ch., 19 Del. Ch. 49, 162 A. 60, 63 (1932),* holding that "there need be no express dedication" of church property in **[**14]** order for the property to be committed to the control of a parent church. *See also Pencader, 22 A.2d at 787.*

The appellant-trustees assert a broad attack on the Court of Chancery decision, alleging not only an erroneous application of trust law but a lack of standing by the Conference to seek the relief of dispossession of church property. In essence, the trustees maintain that the Court of Chancery's finding of an implied trust was based on an analysis of the evidence beyond "the four corners of the instruments of title" and the impermissible application of church doctrine contained in the Discipline. The Conference counters that the court correctly used neutral principles of law in determining the existence of an implied trust and that central holding not only provides the basis for an order of possession but also vitiates any legal basis for the trespass and interference claims against individual church officials and agents.

The Court of Chancery decision was directed to cross-motions for summary judgment with neither party disputing underlying material facts. Accordingly, our review

is *de novo. Williams v. Geier, Del. Supr., 671 A.2d 1368, 1375 (1996).* Moreover, East **[**15]** Lake's attack on the Court of Chancery's application of the principles of implied trust present a clear question of law as to whether the court applied the appropriate legal standards. *See Gaffin v. Teledyne, Inc., Del. Supr., 611 A.2d 467, 474 (1992).*

[*805] A

In response to the Free Exercise and Establishment Clauses of the United States Constitution, courts must proceed with caution in resolving civil disputes within religious organizations. n2 To avoid impermissible inquiry into religious doctrine or practice, two approaches have emerged: the compulsory deference approach (also referred to as the polity approach), and the neutral principles of law approach.

- [16]**

The seminal case dealing with religious property disputes is *Watson v. Jones, 80 U.S. 679, 20 L. Ed. 666 (1872).* In *Watson,* the United States Supreme Court confronted a long-simmering quarrel between pro-slavery and abolitionist/federal government supporting factions of a Kentucky Presbyterian congregation over ownership of local church property. *Id. at 722.* In *Watson,* the Court announced a compulsory deference, or polity, framework to guide civil courts in the resolution of church property disputes. *Id. at 727.* This approach centered upon the organizational structure of the religious institution involved. The majority in *Watson* began its analysis by classifying church property disputes into three categories: express trust cases, n3 congregational church cases and hierarchical church cases. *80 U.S. at 722-23.* If the church was hierarchical in nature, civil courts were instructed to defer to the decision of the appropriate church tribunal whenever "questions of discipline or faith, or ecclesiastical rule, custom or law have been decided." *80 U.S.*

at 727. The *Watson* Court found that a local congregation was hierarchically controlled if it was "a member of **[**17]** a much larger and more important religious organization ... under its government and control, and ... bound by its orders and judgments." *80 U.S. at 726-27.* When dealing with disputes brought by hierarchical churches, civil courts were to enforce the decision of the highest-ranking church decision-making body to which a dispute had been presented.

On the other hand, if the religious organization was primarily congregational in structure, a reviewing court was instructed to determine the right to use the property by the ordinary principles which govern voluntary associations, either by vote of a majority of its members or by "such other local organism as it may have instituted for the purpose of ecclesiastical government." *80 U.S. at 724-25.* The *Watson* Court explained that if property was donated with specific instructions that it be used for the furtherance of certain religious tenets, courts should give effect to the terms **[**18]** of the legal instrument prescribing the donation. *Id. at 723.* Central to the resolution of a religious dispute was the primary determination of the organizational structure of the religious institution before the court. The purpose of the inquiry was to decide, initially, whether a given religious organization was congregational (*i.e.*, independent of other ecclesiastical associations), or hierarchical and subject to authoritative rulings of the appropriate tribunal within the hierarchy. While deference to church authority may appear harsh at first blush, the *Watson* Court reasoned that those who join a church impliedly consent to (and are then bound by) its governing power. *80 U.S. at 729. Watson* also indicated that members of the clergy were more qualified than the civil courts in resolving and interpreting ecclesiastical law and religious faith. *Id.* The *Watson* Court, concluding that the

concluding that the local Presbyterian congregation was part of a hierarchical church structure, **[*806]** ordered deference to the policies of the General Assembly of the Presbyterian Church in the United States of America. *80 U.S. at 726, 733-34.*

In subsequent rulings, the United States Supreme Court **[**19]** continued to establish limits on judicial determinations of religious congregation disputes. *See Bouldin v. Alexander, 82 U.S. 131, 140, 21 L. Ed. 69 (1872)* (in a congregational church an "expulsion of the majority by the minority was a void act"); *Gonzalez v. Roman Catholic Archbishop of Manila, 280 U.S. 1, 16-17, 74 L. Ed. 131, 50 S. Ct. 5 (1929)* (holding that there was subject matter jurisdiction in dispute relating to archbishop's refusal to appoint a candidate to chaplaincy position because he was seeking relief as beneficiary of a trust, but further finding that the determination of what the essential qualifications of a chaplain are and whether the candidate possesses them was an ecclesiastical matter which will be accepted as conclusive in secular courts); *Presbyterian Church in the United States v. Mary Elizabeth Blue Hull Memorial Presbyterian Church, 393 U.S. 440, 449-50, 21 L. Ed. 2d 658, 89 S. Ct. 601 (1969)* (rejecting Georgia Supreme Court decision applying state law "departure-from-doctrine" test as the basis for declaring that general church had forfeited the benefit of an implied trust in disputed church property and recognizing that "there are neutral **[**20]** principles of law, developed for use in all property disputes, which can be applied" without violating the Establishment Clause).

The United States Supreme Court's second approach to ecclesiastical disputes, that of neutral principles of law, was first adopted by a majority of the Court in *Jones v. Wolf, 443 U.S. 595, 61 L. Ed. 2d 775, 99 S. Ct. 3020 (1979).* While retaining the *Watson rationale* for restricting civil court

of law approach broadened the civil courts' inquiry by permitting examination of the secular provisions of religious documents, constitutions and canons. *443 U.S. at 602-604.* The provisions to be examined must be devoid of religious concepts, but articles of incorporation, trust instruments, deeds, and other instruments of ownership, are properly within the purview of the civil courts' inquiry. *Id. at 604.* The neutral principles of law approach was given approval in an earlier decision of the United States Supreme Court in *Maryland and Virginia Eldership of the Churches of God v. Church of God at Sharpsburg, Inc., 396 U.S. 367, 90 S. Ct. 499, 24 L. Ed. 2d 582 (1970); see also, Jones, 443 U.S. at 602-03.* In *Sharpsburg,* **[**21]** the Maryland Court of Appeals had resolved a dispute over church property by construing state statutes governing church property ownership, the language in the deeds conveying the property, charters of the church corporations, and church constitutional provisions regarding church property ownership and control. *Id.* at 367. In affirming the Maryland Court of Appeals, the *Sharpsburg* Court noted that Maryland's approach was constitutionally proper because it was devoid of "inquiry into religious doctrine." *Id.* at 368. In a concurring opinion, Justice Brennan noted that "a State may adopt any one of various approaches for settling church property disputes so long as it involves no consideration of doctrinal matters, whether the ritual and liturgy of worship or the tenets of faith." *Id.* (original emphasis).

The majority in *Jones v. Wolf* appears to have adopted the view expressed by Justice Brennan in *Sharpsburg,* but elaborated on the broader standard in observing:

the neutral-principles method, at least as it has evolved in Georgia, requires a civil court to examine certain religious documents, such as a church constitution, for language of

documents, such as a church constitution, for language of trust in favor **[**22]** of the general church. In undertaking such an examination, a civil court must take special care to scrutinize the document in purely secular terms, and not to rely on religious precepts in determining whether **[*807]** the document indicates that the parties have intended to create a trust. In addition, there may be cases where the deed, the corporate charter, or the constitution of the general church incorporates religious concepts in the provisions relating to the ownership of property. If in such a case the interpretation of the instruments of ownership would require the civil court to resolve a religious controversy, then the court must defer to the resolution of the doctrinal issue by the authoritative ecclesiastical body.

443 U.S. at 604.

The *Jones* Court explained that the neutral principles approach was permissible because it was grounded upon secular trust and property concepts. *443 U.S. at 602-03.* This foundation allowed civil courts to avoid entanglement with doctrinal matters while still permitting review of relevant secular evidence in order to resolve church property disputes. *443 U.S. at 603.* The *Jones* Court also added that application of neutral principles would **[**23]** permit churches to order their affairs in advance of a schism or property dispute through "appropriate reversionary clauses and trust provisions" that could reflect the intentions of a church and its members. *443 U.S. at 603-04.*

Although *Jones* was a 5-4 decision, its central holding, that courts may apply neutral principles of law to resolve church property disputes which do not require courts to defer to the decision of that church's governing body, has found general acceptance in subsequent years at both the state and federal levels. Several of these rulings have involved the question of

of control of its property. *See, e.g., Bishop and Diocese of Colorado v. Mote, Cob. Supr.. 716 P.2d 85.* 96, 103-09, *cert. denied, 479 U.S. 826, 93 L. Ed. 2d 52, 107 S. Ct. 102 (1986)* (applying neutral principles of law approach in determination of trust for benefit of the general church); *Babcock Memorial Presbyterian Church v. Presbytery of Baltimore of the United Presbyterian Church in the United States, Md. Ct. App., 296 Md. 573, 464 A.2d 1008, 1016-17 (1983), cert. denied, 465 U.S. 1027, 79 L. Ed. 2d 689, 104* **[**24]** *S. Ct. 1287 (1984)* (using both a polity and neutral principles of law analysis); *Fonken v. Community Church of Kamrar, Iowa Supr., 339 N.W.2d 810, 812, 819 (1983)* (holding that finding of implied trust in the general church was correct under both neutral principles of law and compulsory deference approaches). Other courts applying neutral principles of law have rejected the claim of a trust relationship between a local and a general church. *See, e.g., Bjorkman v. Protestant Episcopal Church in the United States of America of the Diocese of Lexington, Ky. Supr., 759 S.W.2d 583, 586-87 (1988)* (using neutral principles of law approach to find no evidence of either an express or constructive trust in favor of the general church); *First Presbyterian Church of Schenectady v. United Presbyterian Church in the United States, N.Y. Ct. App., 62 N.Y.2d 110, 464 N.E.2d 454, 459-60, 476 N.Y.S.2d 86,* cert. denied, *469 U.S. 1037, 83 L. Ed. 2d 404, 105 S. Ct. 514 (1984)* (applying neutral principles of law approach to find no express or implied trust in favor of the general church).

In sum, deference and neutral principles of law enjoy a parallel relationship in the resolution of property **[**25]** rights involving churches. Some decisions, particularly those emanating from the highest level of authority in hierarchical churches where church law clearly defines property rights, require deference. Yet, perhaps a majority of property dispute questions in congregational or limited hierarchical church

questions in congregational or limited hierarchical church organizations may be decided by civil courts using "any one of various approaches for settling property disputes so long as it involves no consideration of doctrinal matters." *Jones, 443 U.S. at 602* (original emphasis).

B

Delaware decisional law has been consistent with the development of the deference **[*808]** and neutral principles of law approaches as they have evolved at the federal constitutional level. In *Pencader,* this Court, acknowledging the deference standard then mandated by *Watson,* refused to examine entitlement to church property on the basis of differences over church doctrine. *22 A.2d at 790.* This Court ruled that where "the property right turns upon a determination of the correctness of religious creed or teaching, the judgment of the supreme ecclesiastical tribunal is conclusive." *Id.* In upholding a finding of title in the general church over the claims of **[**26]** the trustees of the local congregation, this Court noted that incorporation under Delaware's Religious Societies Act of 1787 by a local church, "in affiliation with and a constituent of a general denominational church" would not alter the fact that "the property acquired by it in general grant was held by the corporate body ... in the sense of a trust for ... the denominational church at large of which the local congregation was but a component." *22 A.2d at 787-88.* Earlier decisions from the Court of Chancery, while preceding *Jones,* seem to blend a deference approach with a limited application of neutral principles of law. In *St. Nicholas,* the Chancellor, in resolving a dispute between factions in a hierarchical church, nonetheless approved application of the concept of an implied trust in precluding the attempted seizure of church property by the local congregation over the objection of the parent church. *162 A.*

Presbyterian Congregation at the Head of Christiana in New Castle County, Del. Ch., 22 Del. Ch. 58, 194 A. 100, 103, 105 (1937), in addressing a property dispute between the local church and general organization, the court **[**27]** adopted a clear deference approach in declining to address an adjudication by the general organization regarding a charge of heresy, and thereby rejected the efforts of "seceders" to wrest church property away from "its long established connection" with the larger denomination.

Although this Court has not had the occasion directly to pass upon the appropriate application of the neutral principles of law approach, the Court of Chancery has applied that concept with different results. In *Mother African Union First Colored Methodist Protestant Church v. Conference of African Union First Colored Methodist Protestant Church, 1991 Del. Ch. LEXIS 90, Del. Ch., C.A. No. 12055, 1991 WL 85846* at * 6 (May 16, 1991), *cert. denied, 502 U.S. 908, 116 L. Ed. 2d 245, 112 S. Ct. 302 (1991),* the Court of Chancery rejected the claims of entitlement to local church property asserted by the church conference that was arguably hierarchical. The court, applying neutral principles of law, concluded that legal title had originated in the local church prior to affiliation, and the local church, neither expressly nor by affiliation, had evidenced an interest to transfer the assets of the local church. *Id.* at * 7-8 In **[**28]** *African Methodist Episcopal Church, Inc. v. John Wesley United Church, Inc., 1994 Del. Ch. LEXIS 228, Del. Ch., C.A. No. 1167-K, 1994 WL 643178* at * 5-7 (Nov. 2, 1994), the Court of Chancery, again applying neutral principles of law in a hierarchical context, rejected the claim of a parent organization. The court noted that the original deed conveying the property to local trustees made no reference to adherence to a larger church group or faith and that a loose affiliation at a later date with the hierarchical church and the subsequent execution of a partial conveyance

church and the subsequent execution of a partial conveyance of the property without the authorization or participation of the parent organization evidenced a lack of entitlement in the parent church. *Id.*

The concept of an implied trust relationship between a constituent church and the Conference was applied by Chancellor Seitz in a *pre-Jones* decision involving disputing members of the Methodist Church, the same religious body involved here:

> By joining themselves to the national Methodist Church, the members of a local congregation tacitly agree that they will be bound by the governing authority of the national body. Thereafter when some action is taken by that **[*809]** governing authority, **[**29]** the civil courts, in the absence of some irregularity in the procedure under which the acts were done, will not interfere.

Trustees of The Peninsula Annual Conference of the Methodist Church, Inc. v. Spencer, Del. Ch., 40 Del. Ch. 418, 183 A.2d 588, 595 (1962).

In ruling in favor of the Conference, the court concluded that "whatever interest the Trustees or the Members [of the local church] claim for themselves in the property by virtue of a trust is held by them for the benefit of The Methodist Church at large, subject to the Discipline of the Church." *Id.*

C

In the present case, the Court of Chancery carefully defined the limits of its analysis and concluded that it could determine, under neutral principles of law, whether the East Lake property was subject to control by the Conference under an implied trust theory.

The Court of Chancery analyzed the existence of an implied trust in permitted fashion: examining the circumstances of

relationship between the parties. The court specifically considered the real property deeds, East Lake's certificates of incorporation, the Discipline, and the characteristics of **[**30]** the affiliation between East Lake and the Conference to determine the existence of an implied trust.

An implied trust has two forms, constructive and resulting, with the latter arising from the presumed intention of the parties, based on the circumstances surrounding the particular transaction. n4 A resulting trust arises where a person conveys property under circumstances that raise an inference that the person does not intend the person taking or holding the property to have the beneficial interest in the property. 5 Austin Wakeman Scott, SCOTT ON TRUSTS § 404.1, at p.6, (4th ed., 1989). The presumed intention of the parties guides the resulting trust. *Adams v. Jankouskas, Del. Supr., 452 A.2d 148, 152 (1982).*

To find an implied trust in this case, the court was required to ascertain **[**31]** the intention of the parties without resort to determinations of doctrine or faith. The existence of an implied trust may be reached through reliance on neutral principles of law, specifically, evidence found in the deeds, corporate charters, church documents, and state statutes. In church property control disputes, relevant evidence of the intent to create a trust interest should not be rejected "solely because it does not relate exclusively to or contain the language of traditional property and trust law." *Mote, 716 P.2d at 101.*

An implied trust was correctly found here on the basis of neutral principles of law. East Lake was incorporated as a general corporation in December 1905, and its certificate recited an intention to operate in accordance with the "religion, faith, doctrines, rules, discipline and usages" of the predecessor to the United Methodist Church. This dedication

predecessor to the United Methodist Church. This dedication of purpose is similar to the deed recital considered of importance by the court in *Pencader* that the property should go to the congregation "according to the Presbyterial Rule." *22 A.2d at 785. Pencader* may be distinguished on the ground that there the property deed itself dedicated the property **[**32]** to the church, as distinct from the case here where the actions of the congregation dedicated the property to the hierarchical church. Nevertheless, the intent is the same - that the parent church be the beneficiary of an ownership interest. If this case is compared to *Bouchelle,* it becomes clear that although the language of the deed carries great weight in determining whether a property has been devoted to the church or the local congregation, the deed itself is not dispositive. The *Bouchelle* court found the claim of the **[*810]** dissenting congregation members not supportable, as compared to the claims made in *St. Nicholas Ruthenian,* because the property in question was specifically conveyed by lease to the parent church. *Bouchelle, 194 A. at 105.* The property in *St. Nicholas Ruthenian* was purchased by funds raised by a congregation composed of local adherents, under the guidance of the Bishop. *St. Nicholas Ruthenian, 162 A. at 61.* As in *St. Nicholas Ruthenian,* the property in this case was dedicated, by those who held it, through their constant association with, and explicit recognition of, the parent church.

Although the United Methodist Church may be viewed **[**33]** as hierarchical in structure, that factor does not control the analysis here, nor raise the level of deference. This is so because the original conveyances of title did not provide for an express interest or immediate control by the Conference which, *qua* conference, did not exist until 1940. The religious entity which the Conference later came to represent in governance did exist, however, as a specific

it is this predecessor in belief that East Lake's 1905 Certificate of Incorporation refers to as the "Methodist Episcopal Church" to whose "discipline, rules and regulations ... with which this said congregation is connected." The later confirmatory deeds also recite that connection. Except for the aberrational 1995 mortgage undoubtedly prompted by the impeding order of discontinuation, the trustees of East Lake have made no effort to convey or to encumber church property in situations requiring the participation of the Conference.

As the Court of Chancery noted, transactions in which East Lake either conveyed or mortgaged portions of its property either acknowledged the express trust interest of the Conference or did **[**34]** not require the consent of the Conference. More importantly, there is no claim by the Conference that any of these transactions were contrary to the rules, regulations and Discipline of the United Methodist Church, as would the attempt by the trustees to exercise local control following a resolution of discontinuation adopted by the Conference.

We agree with the analysis conducted by the Court of Chancery under its neutral principles of law approach. While the present trustees may desire to disassociate themselves and the congregation they purport to represent from the United Methodist Church, as presently constituted and organized, they are not free to nullify the affiliation accomplished by previous generations of East Lake church members over more than 100 years. More importantly, they may not negate the legal relationship established in the form of an implied trust based on the language of the conveyances, the recitals and the acknowledgments in the incorporation documents, and the adherence to the Discipline of the parent church. Those documents, and the conduct of the members of East Lake over the course of many years, demonstrate a unity of

over the course of many years, demonstrate a unity of purpose between the local church **[**35]** and the general church that the property held by the local church be dedicated to, and used for, the advancement of the interests of the United Methodist Church as governed by the Conference.

IV

East Lake also claims error in the Court of Chancery's denial of its affirmative defenses, counterclaims and third party action. But the merit of these claims is controlled by the central holding that the church premises and personal assets are held in an implied trust for the Conference. As the beneficiary of that trust, the Conference, both as a matter of trust law and under its own Discipline, is authorized to dictate its future use.

Our affirmance of that bedrock ruling supports the following summary determinations in this appeal: (1) there is no merit to East Lake's statute of limitations defense in view of the prompt action of the Conference in initiating this action for possession and quiet title on September 13, 1995, within three months of the purported effort by the East Lake trustees to execute **[*811]** the mortgage in favor of Naomi Bailey - an act inconsistent with the implied trust benefit owed the Conference; (2) the standing of the Conference to initiate the Court of Chancery action **[**36]** as the beneficiary of the implied trust is not open to question (see *Pencader, 22 A.2d at 786);* (3) the Court of Chancery's injunctive order implementing its decision on the merits of the Conference claim did not exceed that court's discretionary authority to award complete relief against those resisting the Conference's assertion of ownership over the assets, real and personal, of East Lake; and (4) the Court of Chancery correctly dismissed East Lake's counterclaim and third party claims as baseless in view of the clear right of the Conference, acting through its

The judgment of the Court of Chancery is AFFIRMED.

Footnotes

* Appointed pursuant to Art. IV, § 12 of the Delaware Constitution and Supreme Court Rules 2 and 4.

n2 Although the controlling standards of judicial deference to religious disputes have evolved primarily from interpretations of the First Amendment to the United States Constitution, Art. I, § 1 of the Delaware Constitution, enjoining "any magistrate ... in any case" from interfering with the free exercise of religious worship is of equal force. *See Pencader, 22 A.2d at 790.*

n3 The parties do not contend that any express trust is at issue in this case.

n4 A constructive trust is one imposed by a court of equity as a remedy to correct the unlawful vesting, or assertion of, legal title. *Hogg v. Walker, Del. Supr., 622 A.2d 648, 651-52 (1993).* It has no application here.

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LEXSEE 1998 Del. Ch. LEXIS 23

TRUSTEES OF THE PENINSULA-DELAWARE ANNUAL CONFERENCE OF THE UNITED METHODIST CHURCH, INC., a corporation of the State of Delaware, Plaintiff, v. EAST LAKE METHODIST EPISCOPAL CHURCH, INC., a Delaware corporation and a Delaware Religious corporation; JOHN W.H. BAILEY, VERNON G. BAILEY, JR., MAE BAILEY, RUTH HARRIS, and NAOMI BAILEY, Defendants/Third-Party Plaintiffs, v. THOMAS J. EASTBURN, ESQUIRE, R. TAYLOR CLOUD, SUSAN KAREN KESTER, MARK M. PRUETT-BARNETT, JAMES T. SEYMOUR and JOHN HOLDEN, Third-Party Defendants.

C.A. No. 14530

COURT OF CHANCERY OF DELAWARE, NEW CASTLE

1998 Del. Ch. LEXIS 23

November 17, 1997, Date Submitted

February 13, 1998, Date Decided

COUNSEL:

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JUDGES:
CHANDLER, Chancellor.

OPINIONBY:
CHANDLER

OPINION:

MEMORANDUM [*2] OPINION

CHANDLER, Chancellor

Trustees of local Methodist church and trustees of regional conference of the United Methodist Church dispute ownership of real and personal property, including real property on which the church and parsonage buildings are located. Application of neutral principles of law that do not require interpretation or resolution of ecclesiastical issues reveals that the local church held all property in trust for the benefit of the United Methodist Church. Whether the United Methodist Church, however, as the equitable owner of the

property, also obtained legal title upon discontinuance of the local church is a question that depends on the validity of the purported discontinuance and involves, therefore, an ecclesiastical matter that this Court may not decide.

I. BACKGROUND

Plaintiffs are the trustees of the Peninsula-Delaware Annual Conference of The United Methodist Church, Inc. (the "Conference"). Defendants and third-party plaintiffs are East Lake Methodist Episcopal Church, Inc. and some, but not all, of its trustees n1 (collectively "East Lake"). In 1995, the Conference passed a resolution discontinuing the East Lake church, effective July 1, 1995. **[*3]** The Conference does not dispute the fact that defendant East Lake church is (or at least was) the record title owner of the real properties at issue or that the congregation of East Lake has had physical possession of the personal property. It contends, however, that pursuant to Delaware law and The Book of Discipline of The United Methodist Church (the "Discipline"), n2 "title to all East Lake property, real and personal, was assumed by plaintiff" upon East Lake's discontinuance. n3 Defendants argue that legal and equitable title to the real and personal property rests with the corporate body, East Lake Methodist Episcopal Church, Inc., not the Conference. Defendants have filed a counterclaim against East Lake's former pastor, counsel for the United Methodist Church and various officials of the United Methodist Church alleging, *inter alia,* trespass and wrongful interference based on allegations that the third party defendants entered East Lake church after its discontinuance, deconsecrated the property and removed personal property ranging from candlesticks to a frozen "TV" dinner.

The Conference, East Lake, and third-party defendants have each filed motions for summary judgment. The motions filed by the Conference and East Lake focus on one basic question: Who owns the church, the parsonage and the land on which they are located? The parties suggest that the Court may follow one of two different approaches to answer this question. n4 While the Conference favors application of the "deference rule" and East Lake favors application of "neutral principles of law," both parties assert that either approach results in judgment in that party's favor.

- **[*5]**

The Conference contends that this Court, following the guidance of the United States Supreme Court in *Watson v. Jones,* n5 has properly refused to decide contested title issues involving, as this case does, resolution of ecclesiastical issues. n6 Accordingly, the Conference asserts that this Court must defer to the decision of the highest tribunal within the United Methodist Church and allow that body to determine ownership of the real and personal property. If this Court concludes, however, that resolution of ownership does not require the Court to decide ecclesiastical issues and that application of the "deference rule" is not appropriate, the Conference suggests that this Court should resolve the dispute according to "neutral principles of law" as that approach has been defined by the United States Supreme Court in *Jones v. Wolf* n7 and followed by this Court. n8 The Conference contends that pursuant to neutral principles of law, legal and equitable title to all real and personal property clearly rests with the Conference.

East Lake responds that the Conference has based its argument in favor of the "deference rule" on decisions that

are no longer controlling and that this Court must apply "neutral principles of law" to determine ownership of the property. But, contrary to the assertions of the Conference, East Lake contends that reference to neutral principles of law confirms that ownership of the property rests, as it did [*7] in *African Methodist Episcopal Church, Inc. v. John Wesley United Church, Inc.* n9 and *Mother African Union First Colored Methodist Protestant Church v. Conference of African Union First Colored Methodist Protestant Church,* n10 with the local church.

II. DOCTRINAL APPROACH

This Court must defer to the decisions of church tribunals if ownership of the property turns on resolution of ecclesiastical issues. n11 As long as courts do not delve into consideration of ecclesiastical matters, however, they are not bound by a specific approach to the resolution of property disputes. "The First Amendment does not dictate that a State must follow a particular method of resolving church property disputes. Indeed, 'a State may adopt *any* one of various approaches for settling church property disputes so long [*8] as it involves no consideration of doctrinal matters, whether the ritual and liturgy of worship or the tenets of faith.'" n12 Although *Jones* defined the types of neutral principles a Court may consider, the precise principles a Court has the opportunity to apply vary with the circumstances of each case. Included within the set of neutral principles considered by various state courts are real property deeds, church constitutions, church disciplines, church certificates of incorporation, and state laws or statutes. n13

III. ANALYSIS

I am unable to conclude, at least at the start, that ownership of any of the property at issue turns on the resolution of ecclesiastical matters. Accordingly, I rely on neutral principles of law to determine the ownership issues, keeping in mind that this Court may not, under the guise of a neutral principles approach, interpret or resolve ecclesiastical issues. n14

The parties suggest that there are no less than four possible owners of the properties at issue: 1) East Lake as a religious corporation; 2) East Lake as a corporation established under the Delaware General Corporation Law; 3) the Conference; and 4) the State of Delaware. Determination of proper ownership in this case is complicated. Identification of the proper record owner of the various properties, however, is an inherently civil matter requiring, in this ease, only an examination of state laws and statutes, certificates of incorporation, and numerous real property deeds.

With respect to each of the real properties, I conclude that the record owner at the time the deeds were obtained and recorded was East Lake. I do not decide whether East Lake holds these properties as a religious corporation or as a general corporation for in either ease, pursuant to this State's implied trust doctrine, n15 I conclude that each title has been held in trust for the use and benefit of the United Methodist Church and subject to the rules, regulations and discipline of the United Methodist Church to which the congregation of East Lake is connected. Nothing in the record indicates that the religious [*11] or general corporations of East Lake have transferred legal title of the properties to the Conference or that the Conference transferred its equitable title to either corporation of East Lake. Because the Conference's decision

to discontinue East Lake is based on ecclesiastical matters that this Court may not consider, I conclude that determination of the disposition of the property held in trust for the United Methodist Church upon the discontinuance of East Lake is a matter to be decided by the highest tribunals of the United Methodist Church.

A. Record Ownership

The documentary roots of the congregation of the East Lake church arguably may be traced back over 100 years to 1892 when an untitled document was recorded at the Recorder of Deeds in New Castle County. According to that document, the members of "East Lake M.E. Church" met on January 10, 1892, and elected trustees of **[*12]** the "East Lake M.E. Church" located at 30th and Tatnall Streets. n16 Later that year, "East Lake M.E. Church" and "East Lake Methodist Episcopal Church" acquired deeds for adjoining properties at 30th and Tatnall Streets. n17

The untitled 1892 document was apparently an attempt to incorporate the East Lake church under Delaware's 1787 Religious Societies Act. n18 After several years, the members of the East Lake church concluded that the 1892 attempt at incorporation was unsuccessful and, as a result, filed two additional certificates of incorporation in 1905--one intended to "cure" the apparently defective 1892 attempt at incorporation under the Religious Societies Act, the other to incorporate under the state's general corporation law.
- [*13]

The first recites that it was filed by "the same congregation of Christians, and their successors that meet [sic] at the said Church building or premises on or about the tenth day of January A.D. 1892, for the purpose of becoming

incorporated under the laws of the State of Delaware and thereafter certified to the Recorder of Deeds in and for New Castle County that they had become incorporated under the name and title of 'East Lake M.E. Church' which said certificate is recorded in the same Office of the Recorder of Deeds in and for New Castle County in Deed Record Q, Volume 15, Page 460 [the untitled document described above]." n19 This certificate, recorded December 12, 1905, also states that this congregation met on December 1, 1905, elected trustees, and adopted "East Lake Methodist Episcopal Church" as the corporate name. This congregation believed that the previous 1892 incorporation was "defective" because it did not appear to satisfy all the requirements under Delaware law for incorporation. Thus, the "purpose" of this second incorporation was to cure the prior defective one and to incorporate under the name and title of "East Lake Methodist Episcopal Church." n20

The second 1905 certificate of incorporation expressly states that the congregation of East Lake was "desirous of becoming incorporated agreeable to the provisions of an Act of Legislature of the State of Delaware entitled, 'An Act Providing a General Incorporation Law' approved March 10, 1899" and that the certificate was filed to set forth the "objects and purposes" of the corporation. n21 This second" certificate of incorporation (actually the third in this entity's life) was recorded December 30, 1905, and establishes the corporate name as "East Lake Methodist Episcopal Church, Incorporated."

The uncertain effect of the initial 1892 attempt at incorporation may appear, at first, to cast doubt on the identity of the owner of the properties conveyed in 1892 to "East Lake M.E. Church" and "East Lake Methodist

Episcopal Church." n22 Whatever the effect of the 1892 attempt at incorporation, **[*15]** however, by December 12, 1905, the record owner of the properties was the East Lake church in its capacity as a religious corporation. If the 1892 attempt at incorporation was successful, then title to the properties vested upon their grants in 1892. If, on the other hand, the initial incorporation attempt was unsuccessful, the property escheated to the State pursuant to an 1855 law prohibiting the "grant[,] conveyance, devise or lease of any real estate, dedicated or appropriated, or intended to be dedicated or appropriated to purposes of religious worship for the use of any congregation or society" to any organization other than a corporation organized according to the provision of the laws of this State, as contained and provided in and by the 39th Chapter of the Revised Code, under the title of 'Religious Societies.'" n23 The same 1855 law provided for the Secretary of State to convey the escheated property back to the society once it had properly incorporated under the Religious Societies Act. n24 Assuming the 1892 attempt at incorporation was unsuccessful, East Lake incorporated under the Religious Societies Act n25 in early December 1905, just before it incorporated **[*16]** as a general corporation under Delaware's general corporation law. Thus, by early December 1905, record title to the properties rested with East Lake as the religious corporation, whether or not the initial 1892 incorporation attempt was successful.

Apparently unaware of the 1855 statute conveying escheated property back to the religious society once it had properly incorporated, the original grantors of the 1892 deeds, along with "East Lake M.E. Church," entered **[*17]** into a confirmatory deed in 1906 with "East Lake Methodist Episcopal Church, Incorporated." The language of the deed clearly shows that the grantors realized the fact that the 1892

incorporation as a religious society may not have been successful and that the grantors entered into the 1906 deed "for the purpose of confirming and making good the title" n26 of the properties conveyed to East Lake in the deeds of 1892.

The Conference asserts that East Lake took title to the properties identified in the 1892 and 1906 deeds as a general corporation. n27 The basis for this argument is unstated. Perhaps the Conference's contention rests upon the facts that 1) the religious corporation adopted the name East Lake Methodist Episcopal Church, 2) the general corporation adopted the name East Lake Methodist Episcopal Church, Inc., and 3) the 1906 deed identifies the grantee by the name of the general corporation. Such an argument would depend on the validity of the transfer of the property **[*18]** from the religious corporation to the general corporation via the 1906 confirmatory deed.

In any event, it is clear that by December 12, 1905, East Lake, as a religious corporation, held title to the properties either because title was properly secured in 1892 or because the title, which escheated to the state in 1892, was returned to East Lake upon its proper incorporation in 1905 as a religious society pursuant to Chapter 39 as the 1855 law requires. Thus, for East Lake as a general corporation to have obtained title, it must have been transferred from the religious corporation to the general corporation via the 1906 confirmatory deed. Whether the grantor East Lake M.E. Church had the authority to transfer the title from the religious corporation known as East Lake Methodist Episcopal Church, whether the grantee East Lake Methodist Episcopal Church, Inc., was acting as East Lake's general corporation (thus implicitly **[*19]** rejecting any claim that

the 1906 deed was recorded merely to confirm the 1892 deeds to the religious corporation), and whether, ultimately, the 1906 confirmatory deed successfully transferred title from the religious corporation to the general corporation, n28 are questions I need not resolve. The only relevant issue relating to the transfer attempted by the 1906 confirmatory deed is the undisputed fact that the general corporation, if it held any title at all, held only the title previously possessed by the religious corporation.

The parties identify two other deeds purportedly transferring property interests to one of the corporate bodies of East Lake. n29 In 1909 and 1928, "East Lake Methodist Episcopal Church, Incorporated" is named as the grantee on two recorded deeds. n30 An examination of the deeds alone does not definitively reveal whether the grantors intended to convey the properties to East Lake as a religious corporation or to East Lake as general corporation. The grantee, however, is identified by the proper legal name of the general corporation. For the purposes of this action, it is only necessary to conclude that record title, for both properties, at the time of receipt, was held either by the religious corporation or by the general corporation of the local East Lake church.

B. Nature of Property Titles Acquired by the East Lake Corporations

None of the evidence yet considered has indicated the equitable nature of the title held by the religious corporation or the general corporation. Resolution of this issue also can be accomplished by reference to neutral principles.
Both the Conference and East Lake claim ownership of the real and personal property pursuant to the application of

neutral principles of law. East Lake asserts that there are "striking similarities" between the congregation of East Lake and the congregation of *African Methodist Episcopal Church, Inc. v. John Wesley United Church, Inc.* n31 East Lake urges this Court to follow the approach of former Chancellor Allen in *John Wesley* who determined first whether the initial deed vested equitable rights in a hierarchical religious organization with which the local congregation was affiliated. Finding that it did not, former Chancellor Allen then considered whether such an interest could have been implied by the relationship between the local church and the national organization. According to East Lake, consideration of neutral principles fails to reveal the creation of an equitable **[*22]** interest in favor of the Conference, whether by the initial deeds or by the subsequent conduct of the parties. The Conference contends, however, that the factual background of this dispute is fundamentally similar to that in *Trustees of Pencader Presbyterian Church v. Gibson* n32 and asserts that neutral principles of law require this Court to find that ownership of all property rests with the Conference.

As indicated above and explained below, this Court is unable to declare that East Lake or the Conference is the sole owner of the properties at issue. The most this Court may conclude is that East Lake, as a religious or as a general corporation, acquired and continued to hold (at least until the date of discontinuance) legal title to the **[*23]** properties at issue in trust for the equitable owner, the Conference of the United Methodist Church. The proper disposition of these properties after the purported discontinuance is not a matter this Court may decide. That is, the validity of the discontinuance and its effect on the properties in question is a matter to be decided by the inner tribunals of the United Methodist Church.

1. *The Implied Trust Doctrine*

The rule in Delaware is clear: where a local church, incorporated under the laws of this State, exists in affiliation with and is a member of a general denominational church and holds property acquired by general grant, the property is held in "trust for the maintenance and furtherance of the faith and creed of the denominational church at large." n33 This implied trust results because our corporations "consist solely of the trustees separate and apart from the members of the society, and are under a fiduciary relationship to the association of individuals voluntarily banded together for the culture and propagation of their religious and spiritual aspirations." n34 Accordingly, "there need be no express dedication of a church property to the worship of God **[*24]** according to the doctrine and faith of a given church in order to affix it to the character indicated by the purpose of its creation and continued use." n35

Our Courts have applied this doctrine to churches incorporated under the Religious Societies Act of 1787 n36 as well as under a separate statute providing for the incorporation of Roman Catholic Churches. n37 Our implied trust doctrine, although not codified, is a neutral principle of law that provides for results similar to that obtained in numerous other states by statute. n38

In this case, it is clear that East Lake, as the record holder of the real properties at issue, is an incorporated body under the laws of our State. For an implied trust to attach to its real and personal property, however, the local church must hold that property subject to a general grant and must be sufficiently affiliated with a general denominational church. n39 There is no question that the United Methodist Church is such a general denominational church. Where the local church is not sufficiently affiliated with the general denominational church or where control of the property is

expressly restricted to the local church, however, an implied trust in favor of the parent denominational church will not be recognized.

Whether East Lake acquired and whether East Lake continued to hold the property in trust for the use and benefit of the United Methodist Church are questions that may be answered by reference to neutral principles of law and are questions **[*27]** that do not require interpretation or resolution of ecclesiastical issues. East Lake and the Conference, however, do not agree on which neutral principles this Court may consider. The Conference contends that this Court's determination of whether East Lake holds the property subject to an implied trust should be based on consideration of the real property deeds, the Discipline, East Lake's certificate of incorporation, and the characteristics of the relationship between East Lake and the Conference. East Lake supports consideration of the same list of factors except for the Discipline because, according to East Lake, "it would be an unconstitutional exercise of jurisdiction for this Court to interpret, enforce or otherwise review provisions of the Discipline to determine ownership rights over the property at issue." n40

Defendants correctly note that this Court may not rely upon the Discipline **[*28]** to resolve church property disputes if doing so would require the Court to interpret religious doctrine. Consideration of the Discipline, however, to determine the relationship between the United Methodist Church and local churches affiliated with the United Methodist Church, or the rules and regulations pertaining to real property held by affiliated churches, is not improper. This Court is precluded from interpreting the Discipline and

required to defer to the higher church body's interpretation of religious tenents when resolution of real property ownership turns on an ecclesiastical issue. n41 Recognizing this limitation, I conclude that this Court is not prevented from resorting to secular consideration of the Discipline to the extent those provisions aid resolution of the property ownership issue. n42 Accordingly, I consider our implied trust doctrine, the real property deeds, East Lake's certificates of incorporation, the Discipline of the United Methodist Church and the characteristics of the relationship between East Lake and the Conference to determine whether an implied trust attached to the properties at the time they were first obtained by East Lake. Concluding that an **[*29]** implied trust did attach upon initial receipt of the properties, I examine similar factors, including the relationship between East Lake and the United Methodist Church as that relationship has developed over time, to determine whether East Lake or the United Methodist Church have conveyed or relinquished their respective legal and equitable rights in the properties.

2. East Lake's Title Upon Receipt of the Properties

None of the deeds at issue contain any restrictions or conditions that negate the existence of an implied trust in favor of the United Methodist Church. Two deeds, however, contain clauses supporting the existence of an implied trust. The 1928 deed clearly establishes that the property was to be held "in trust for" the use of the United Methodist Church's predecessor, The Methodist Episcopal Church, and was subject to its "doctrines, law, usages, and ministerial appointments." n43 Furthermore, the property conveyed by "East Lake Methodist Church, Inc." on September 6, 1946, was initially granted to East Lake pursuant to the terms of a will providing that any property remaining after the

deceased's wife died "shall be given to East Lake Methodist Episcopal Church, Thirtieth and Tatnall, to be put in Trust and only interest taken and used to defray Pastor's salary, and when East Lake Church ceases to be a Church...it shall go to help worn out preachers in M.E. Churches." n44 In 1985, "Eastlake Methodist Church of Wilmington, Delaware, also known as Eastlake Methodist Episcopal Church, Inc.," received and conveyed property obtained **[*31]** via the will of Grace M. Green. n45 Her will provided the property was "to be used by the governing body of said church for general purposes, that is to say, to have and to hold the same, absolutely and forever in fee simple." n46 I conclude that the property received via the 1928 deed was held subject to an express trust in favor of the United Methodist Church. I also conclude that proceeds of the property conveyed away in 1946 are--as the property itself--subject to the condition that "when East Lake ceases to be a Church" they are used for the benefit of retired United Methodist ministers. All other deeds, by their express terms, neither support nor negate the existence of an implied trust in favor of the United Methodist Church.

The parties contend that two aspects of the certificates of incorporation are worthy of consideration: the references to the predecessor of the United Methodist **[*32]** Church and the description of the corporations authority over real property. The Conference notes that the 1812 certificate incorporating East Lake as a religious society states that "for the purpose of becoming incorporated, under the laws of the State of Delaware, a public meeting ... was held ... pursuant to ten days notice ... as required by the laws of the State of Delaware, and such additional notices were given according to the manner presented in the discipline, rules and regulations of the Methodist Episcopal Church with which

this said congregation is connected." n47 The certificate incorporating East Lake as a general corporation states that the congregation was formed "for the purpose of worshipping Almighty God, according to the religion, faith, doctrines, rules, discipline and usages of the Methodist Episcopal Church in the United States of America." n48 This certificate also states that membership in the corporation "shall be composed of the subscribers to this Certificate of Incorporation, and their associates, the members of the church or congregation of Christians now worshipping at [30th and Tatnall Streets], and our successors and such other persons as **[*33]** may hereinafter constitute and compose the membership of the said Church as may from time to time be admitted to membership in said church, according to the discipline rules regulations and usages of the United Methodist-Episcopal Church in the United States of America." n49 The trustees, charged with management of the "temporal affairs, over-sight, and business of" the corporation, are also limited to those "elected in such a manner as the rules and discipline of the Methodist Episcopal Church in the United States of America shall provide." n50 East Lake notes, however, that despite the several references to a religious connection with the larger Methodist Episcopal Church, the second certificate expressly provides the corporation with "the power to buy, hold, own, purchase or otherwise acquire, to sell, mortgage, pledge, assign and transfer or otherwise dispose of real and personal property." n51

Clearly, the individuals of the East Lake congregation formed a church for the purpose of worshipping, not only in accordance with the "religion" and "faith" of the United Methodist Church's predecessor, but also in accordance with its "doctrines, rules, discipline and usages." Contending that

the second certificate affirmatively negates the existence of any implied trust in favor of the United Methodist Church, East Lake fails to explain why (or if) vesting in the corporation the power to manage property would necessarily conflict with other provisions in that certificate including references to the Discipline. East Lake claims that, like the certificate in the *Mother Church* cases, East Lake's certificate expressly placed management of real property in hands of the local church. But neither of East Lake's certificates are similar to the certificate in *Mother Church* which clearly provided an affirmative restriction on the ability of the local church to transfer the property by requiring any transfer or mortgage to be first approved by the majority vote of the members of the religious corporation. n52 There is no such affirmative restriction here and, unlike *Mother Church*, **[*35]** no basis for me to conclude that the provision in the certificate granting East Lake the power to manage property conflicts with the existence of an implied trust. I find it most likely that the provision was added to reflect the suggested form of incorporation provided by the Discipline in effect at the time. n53 As trustees of either the religious or the general corporation, East Lake's elected trustees had a fiduciary duty to manage the affairs of the corporation to promote the purpose for which the corporation was formed. In the absence of a deed expressly restricting control of the property to the local church, I conclude that under the terms of either of East Lake's certificates of incorporation, all property received by either East Lake corporation was held subject to the rules, regulations and discipline of the larger church organization with which the congregation of East Lake elected to establish a connection. n54 And finally, the United Methodist Discipline in effect at the time of the 1905 certificates of incorporation and the 1906 confirmatory deed clearly provided that the predecessor of the United Methodist Church

retained an equitable interest in any property held by [*36] a local church.

In all cases where Church property is abandoned, or no longer used for the purpose originally designated, it shall be the duty of the Trustees, if any remain, to sell such property and pay over the proceeds to the Annual Conference within whose bounds it is located; and where no such lawful Trustees remain, it shall be the duty of said Annual Conference to secure the custody of such Church property.... n55

3. East Lake's Ownership Interest at the Time of Deconsecration

East Lake notes many characteristics of its relationship with the United Methodist Church (or the Conference) and suggests that these characteristics support a finding that [*39] East Lake was not sufficiently connected to the United Methodist Church or its predecessor for there to have been an implied trust in favor of the general denominational church. While I conclude that all the properties, both real and personal, received by an East Lake corporation under either the 1892 or the 1905 certificates of incorporation were held subject to the rules, regulations and discipline of the United Methodist Church, I do not dismiss the possibility that East Lake or the United Methodist Church took steps after the receipt of such properties that altered the conditions under which the properties were held. East Lake's arguments, however, do not support such a conclusion.

East Lake asserts that although the term "Methodist" remains in both of its corporate names its relationship with the United Methodist Church has been marked by strong signs of independence for many years. East Lake also contends that the United Methodist Church is not a hierarchical

organization, nor one to which East Lake has a sufficiently close relationship to establish or support the existence of an implied trust. n56 In support of this argument, East Lake alleges that it has a long history [*40] of freely acquiring or transferring property without the involvement of the Conference.

First, it notes that property acquired by the 1928 deed was immediately mortgaged for its purchase price of $ 10,000 without the involvement of the Conference or any other representative of the United Methodist Church. n57 The Conference points out, however, that, as discussed above, the property securing this mortgage was subject to an express trust in favor [*41] of the United Methodist Church, Second, East Lake contends that the same property was sold for $ 7,000 in 1980 to Naomi and Vernon Bailey, Jr. (two of the defendant trustees) without any involvement of the United Methodist Church. n58 East Lake also makes vague references to the existence of two additional mortgages incurred by East Lake without involvement of the United Methodist Church. I find, however, that there is insufficient evidence to support the existence of the first mortgage n59 and that the Conference has raised serious doubts as to the validity of the second mortgage, entered into after the Conference announced the discontinuation of East Lake. n60 More importantly, there is no allegation that any of the mortgages or property transfers required involvement of the United Methodist Church, that the United Methodist Church's failure to become involved or to approve the mortgages or transfers violated the Discipline, n61 or that such failure in any way affected the existence of the implied trust already established in favor of the United Methodist Church. Accordingly, I cannot conclude that this alleged lack of participation in or approval of these mortgages and property

[*42] transfers supports East Lake's assertion that the properties were neither held in trust for the use and benefit of the United Methodist Church nor subject to the rules, regulations and Discipline thereof.

I am satisfied that there was sufficient affiliation for the following reasons. First, East Lake accepted ministers appointed by the Conference of the United Methodist Church. Second, the Conference paid insurance and retirement benefits for the ministers, although East Lake did pay the ministers' salaries. Neither party suggests that this arrangement was in any way a violation of the rules, regulations or Discipline of the United Methodist Church. Third, the Conference submitted uncontested evidence that East Lake has paid apportionments to the United Methodist Church. n62 Finally, the covers of East Lake's 85th, 90th, 95th, and 100th anniversary bulletins (in 1975, 1980, 1985 & 1990, respectively) **[*44]** further support the continued connection by referring to East Lake as a "United Methodist" church. n63

More recent interactions between East Lake and the United Methodist Church also reveal a close connection between the two entities. East Lake sent delegates to the Annual Conference meeting during which the decision was made to discontinue East Lake. Even after the discontinuance, East Lake's newsletter indicated a desire to remain connected to the Methodist Church, n64 and East Lake sought and obtained via the internet permission from the United Methodist Church to continue to use its logo of a cross and flame on materials prepared for East Lake's 100th Anniversary. n65

East Lake does not deny these connections and fails to document counterbalancing evidence of East Lake's independence from the United Methodist Church. The individual defendants assert their independence, and it is quite clear that they do not wish to be associated with certain aspects of the United Methodist Church. n66 It is equally clear that their former pastor did not consider the Bailey family to be "United Methodists." n67 But the Bailey family, despite the fact that it appears to dominate the small congregation, as well as the trustees, is not East Lake. The concerns the family has with the United Methodist Church and the concerns the Church has with the Baileys are personal disagreements that, without more, the insufficient to dissolve the legal relationship existing **[*46]** in the form of an implied trust established each time East Lake received property. For this reason, and because East Lake admits that it was not independent of the United Methodist Church and that it was subject to its Discipline prior to the discontinuance, n68 I am unable to conclude that the above mentioned characteristics of the relationship between East Lake and the United Methodist Church may be interpreted as destroying the implied trust established for the properties at the times of their receipt by East Lake. Accordingly, all properties that were obtained by East Lake--and which were held in trust for the use and benefit of the United Methodist Church (or its predecessor) and subject to its rules, regulations and discipline--were still subject to these conditions immediately prior to the purported discontinuation of East Lake in July, 1995. n69

IV. CONCLUSION

Defendants' motion for summary judgment is denied. Plaintiffs' motion for summary judgment is granted insofar as

it seeks a declaration that the real and personal property discussed herein was held by East Lake church in trust for the use and benefit of the United Methodist Church immediately prior to the effective date of East Lake's discontinuance. Third-Party defendants' motion for summary judgment related to the alleged trespass on East Lake's property is dismissed as moot. n70

n64 East Lake's newsletter published just after the discontinuance reported that defendant trustee John Bailey stated to the Annual Conference just after it voted to discontinue East Lake "that East Lake had paid their appointments and that the church wanted to remain Methodist." Pls.' Supp. App. at SA 129 to SA-130 (East Lake News June 15, 1995). A short time later the Newsletter reported that the United Methodist Conference had "discontinued Eastlake illegally." *Id.* at SA-131 to SA-132 (East Lake News July 1995). **[*45]**

n65 *See id. at* SA-96 to SA-97 (Deposition of John W. H. Bailey, III), SA 106 to SA-107 (Letter dated July 10, 1997, from David A. Ullrich, Associate General Counsel, The United Methodist Church to Thomas J. Eastburn, describing conditions under which logo may be used and providing a copy of their internet web page.)

n66 Defendant Vernon C. Bailey considers the United Methodists to be "[a] group of so-called liberal sodomites." Pls.' Supp. App. at SA-83. John W.H. Bailey "judged" the United Nations Children's Fund, an organization that the United Methodists support, to be a "liberal communist" organization. *Id.* at SA-87. Moreover, he believed that East Lake was "a church that stood for prohibition, against

abortion, against homosexuality, and all those things that United Methodists are taking up with wholeheartedly." *Id.* **[*47]**

n67 East Lake's former pastor described East Lake as a church "dominated by the Bailey family" whose character "goes beyond simple obnoxiousness or meanness." He believed that the family members "are not United Methodists, except in name," "that they have no desire to see Eastlake functioning as a United Methodist church," and that the difficulty between the Baileys and the United Methodist Church was caused by the failure of the "Conference to hold the church accountable." *Id.* at SA-148 to SA-149 (Letter dated Aug. 6, 1991, from Rev. Mark M. Pruett-Barnett, East Lake Church to Rev. Dr. J.T. Seymour, District Superintendent, the Wilmington District, The United Methodist Church).

n68 *See* Pls.' Supp. App. at SA-46 (Defs.' Responses to Pls.' Interrogatories, No. 4 ("By virtue of the deconsecration as alleged in the Complaint, East Lake is no longer a church bound by the Book of Discipline. (first emphasis added)).

n69 Because the implied trusts arose at the time of receipt of the properties, Defendants' claims based on the statute of limitations and statute of frauds necessarily fail, and I consider these claims no further. In addition, I find no merit in Defendants' allegations that the Conference, by failing to obtain a proper opinion of counsel, failed to follow the Discipline and that, therefore, the discontinuance was ineffective. Moreover, I note that this defense was not raised in Defendants' answer.

Counsel shall confer and attempt to reach agreement on a form of Order implementing the above rulings.

----------Footnotes----------

n1 John W.H. Bailey, Vernon O. Bailey, Jr., Mae Bailey, Ruth Hams and Naomi Bailey are the only trustees appearing as defendants. **[*4]**

n2 The Discipline contains the Constitution of the United Methodist Church and the rules and regulations pertaining to its organization and governance.

n3 Complaint for injunctive Relief, to Quiet Title to Real and Personal Property, for Trespass and for Special and Compensatory Damages P 12 [hereinafter Compl.].

n4 As explained below, the church, the parsonage and the land on which they are located are not the only properties at issue.

n5 *80 U.S. (13 Wall.) 679, 20 L. Ed. 666 (1871).*

n6 *See, e.g., Trustees of Pencader Presbyterian Church v. Gibson, Del. Supr., 26 Del. Ch. 375, 22 A.2d 782 (1941); Trustees of the Peninsula Annual Conference of the Methodist Church, Inc. v. Spencer, Del. Ch., 40 Del. Ch. 418, 183 A.2d 588 (1962).* **[*6]**

n7 *443 U.S. 595, 99 S. Ct. 3020, 61 L. Ed. 2d 775 (1979).*

n8 *See, e.g., St. Thomas African Union Methodist Protestant Church v. Conference of African Union First Colored*

Methodist Protestant Church, 1996 Del. Ch. LEXIS 74, Del. Ch., C.A. No. 13006, Steele, V.C. (June 24, 1996), *aff'd, Del. Supr., 698 A.2d 409 (1997); African Methodist Episcopal Church, Inc. v. John Wesley United Church, Inc., 1994 Del. Ch. LEXIS 228,* Del. Ch., C.A. No. 1167-K, Allen, C. (Nov. 2, 1994); *Mother African Union First Colored Methodist Protestant Church v. Conference of African Union First Colored Methodist Protestant Church, 1991 Del. Ch. LEXIS 90,* Del. Ch., C.A. No. 12055, Jacobs, V.C. (May 15, 1991), *aff'd, Del. Supr., 633 A.2d 369, cert. denied, 510 U.S. 1025, 126 L. Ed. 2d 595, 114 S. Ct. 637 (1993).*

n9 *1994 Del. Ch. LEXIS 228,* Del. Ch., C.A. No. 1167-K, Allen, C. (Nov. 2, 1994).

n10 *1991 Del. Ch. LEXIS 90,* Del. Ch., C.A. No. 12055, Jacobs, V.C. (May 15, 1991), aff'd, *Del. Supr., 633 A.2d 369, cert. denied, 510 U.S. 1025 (1993).*

n11 *See, e.g., Jones, 443 U.S. at 604; Watson, 80 U.S. (13 Wall.) at 727; Mother African, 1991 Del. Ch. LEXIS 90,* *17, Del. Ch., C.A. No. 12055, Jacobs, V.C. (May 15, 1991).

n12 *Jones, 443 U.S. at 602* (citing *Maryland & Va. Churches v. Sharpsburg Church, 396 U.S. 367, 368, 24 L. Ed. 2d 582, 90 S. Ct. 499* (BRENNAN J., concurring) (emphasis in original)).

n13 *See, e.g., The Conference of African Union First Colored Methodist Protestant Church v. Shell, Pa. Commw. Ct., 659 A.2d 77 (1995)* (consideration of articles of incorporation, state statute, and general church's Book of Discipline);

Bishop and Diocese of Colorado v. Mote, Colo., 716 P.2d 85, 104 (1986) (considered of deeds, articles of incorporation and bylaws of local church, constitutions and canons of general church, and state statutes).

n14 Application of neutral principles is not without difficulty. "[A] civil court must take special care to scrutinize the document in purely secular terms, and not to rely on religious precepts in determining whether the document indicates that the parties have intended to create a trust. In addition, there may be cases where the deed, the corporate charter, or the constitution of the general church incorporates religious concepts in the provisions relating to the ownership of property. If in such a case the interpretation of the instruments of ownership would require the civil court to resolve a religious controversy, then the court must defer to the resolution of the doctrinal issue by the authoritative ecclesiastical body." *Jones, 443 U.S. at 604.*

n15 *See Trustees of Pencader Presbyterian Church v. Gibson, Del. Supr., 26 Del. Ch. 375, 22 A.2d 782, 787-88 (1941).*

n16 App. to Pls.' Opening Br. in Supp. of its Mot. for Summ. J. at A-39 to A-42 [hereinafter Pls.' App.].

n17 *Id.* at A-60 to A-70.

n18 The 1787 Act entitled "An act to enable all the religious denominations in this State to appoint Trustees, who shall be a body corporate for the purpose of taking care of the

temporalities of their respective congregations" (2 Del. Laws ch. 144 (1700-1797)) remained in force with only minor changes throughout the time period of East Lake's two attempted incorporations under the Act. *See* 1829 Del. Laws (Revised) (Religious Societies (III)); 1852 Del. Laws Revised Code tit. 6th, ch. 39 (as amended 1874 and 1893). For a description of the Act and its early history see *Delaware Land & Dev. Co. v. First & Cent. Presbyterian Church., Del. Supr., 16 Del. Ch. 410, 147 A. 165 (1929).*

n19 Pls.' App. at A-45. **[*14]**

n20 Id.

n21 Id. at A-55.

n22 Neither party contends, and I find nothing in the record to suggest, that the terms "East Lake M.E. Church" and "East Lake Methodist Episcopal Church" are not simply two different ways of referring to the same religious society or corporation.

n23 An Act in Relation to Conveyances and Devises of Personal and Real Estate for Religious Purposes, § 2, 11 Del. Laws ch. 275 (1853-1859).

n24 *Id.* § 5.

n25 1852 Del. Laws Revised Code tit. 6th, ch. 39 (as amended 1874 and 1893) (The Religious Societies Act).

n26 Pls.' App. at A-73.

n27 *See* Letter dated Oct. 31, 1997, from Thomas J. Eastburn to the Court, at 1-2.

n28 Pursuant to § 2 of the 1855 Act (11 Del. Laws ch. 275 (1853-1859)), East Lake could not have received title to the properties in 1892 as it was not a corporation incorporated under the Religious Societies Act. East Lake, however, was apparently not the only religious society concerned that it had not properly incorporated or that the validity of its property deeds might be in question. As a result, our Legislature, in 1911, enacted a law clarifying the status of such corporations and their acts. *See 26* Del. Laws tit. 6th, ch. 90 (An act to validate and make lawful the incorporation and acts of certain religious societies). Thus, the failure of East Lake to comply with the 1855 Act would probably not be a bar to the successful transfer of the property.

n29 Although one or both of these properties may have been sold later, it is necessary to determine ownership of these properties prior to their transfer to the extent that each party claims entitlement to any identifiable proceeds of the properties.

n30 *See* Pls.' App. at A-79 to A-83 (deed from Artisans Savings Bank), A-84 to A-89 (deed from Elizabeth W. Russell and Charles O. Russell).

n31 *African Methodist Episcopal Church, Inc. v John Wesley United Church, Inc., 1994 Del. Ch. LEXIS 228,* Del. Ch., C.A. No. 1167-K, Allen, C. (Nov. 2, 1994).

n32 *Trustees of Pencader Presbyterian Church v. Gibson, Del. Supr., 26 Del. Ch. 375, 22 A.2d 782 (1941).*

n33 *22 A.2d at 787-88* (applying rule to churches incorporated under the Religious Societies Act of 1787). *See also St. Nicholas Ruthenium Greek Catholic Church v. Bilanski, Del. Ch., 19 Del. Ch. 49, 162 A. 60, 63 (1932)* (applying rule to church incorporated under the predecessor to our current 27 *Del. C. §* 115).

n34 *Trustees of Pencader, 22 A.2d at 787.*

n35 Id.

n36 *See id. at* 787; *Bouchelle v. Trustees of Presbyterian Congregation, Del. Ch., 22 Del. Ch. 58, 194 A. 100 (1937)* (cited approvingly in *Trustees of Pencader, 22 A.2d at 787).* **[*25]**

n37 *See St. Nicholas Ruthenian Greek Catholic Church v. Bilanski, Del. Ch., 19 Del. Ch. 49, 162 A. 60 (1932)* (also cited approvingly in *Trustees of Pencader, 22 A.2d at 787).*

n38 *See, e.g., 10 PA.* CONS. STAT. ANN § 81 (1996). Several states have statutes expressly addressing property held by a local Methodist Church. *See, e.g., CONN.* GEN. STAT. ANN. § 33-270 (1997) (property shall be held in trust according to the discipline of the Methodist denomination to which it belongs); MD. CODE ANN., CORPS. & ASS'Ns, § 5-326 (1997) (property held in trust for the United Methodist Church, subject to its discipline); N.Y. RELIG. CORP. LAW § 330 (McKinney 1997) (trustees of incorporated church shall administer property in accordance with the rules and

discipline of the United Methodist Church); WIS. STAT. ANN. § 187.15 (1997) (property shall be held in trust for Methodist Church subject to the terms of its rules and discipline, and "whenever any local Methodist Church or society shall become defunct or be dissolved the rights, privileges and title to the property thereof, both real and personal, shall vest in the annual conference and be administered according to the rules and discipline of said church."); ME. REV. STAT. ANN., tit. 13, § 2982 (West 1996) (property held "subject to the restrictions contained in the Book of Discipline of the United Methodist Church").

n39 *Trustees of Pencader, 22 A.2d at 787.*

n40 Defs.'/Third-Party Pls.' Reply Br. in Supp. of their Mot. for Summ. J. at 2 [hereinafter Defs.' Reply].

n41 *See, e.g., The American Union of Baptists, Inc. v. The Trustees of the Particular Primitive Baptist Church at Black Rock, Inc., Md., 335 Md. 564, 644 A.2d 1063, 1069-1070 (1994)* (Court refused to resolve property dispute because ownership of property depended on which of two groups consisted of the "proper" congregation according to religious principles established in the Discipline).

n42 *See also Mother African Union First Colored Methodist Protestant Church v. Conference of African Union First Colored Methodist Protestant Church, 1992 Del. Ch. LEXIS 89,* *5-6 n.2, Del. Ch., C.A. No. 12055, Jacobs, V.C. (Apr. 22), *appeal dismissed, Del. Supr., 610 A.2d 724 (1992), aff'd, Del. Supr., 633 A.2d 369, cert. denied, 510 U.S. 1025, 126 L. Ed. 2d 595, 114 S. Ct. 637 (1993)* (noting Court may consider secular interpretations of church Discipline).

n43 Pls.' App. at A-86.

n44 Id. at A-98.

n45 Id. at A-99.

n46 Id. at A-105.

n47 *Id.* at A-47 (emphasis added).

n48 *Id.* at A-51 (emphasis added).

n49 *Id.* at A-52 (emphasis added).

n50 Id.

n51 Id. at A-53.

n52 Article 4th of Mother Church's certificate of incorporation provided the following restriction:

The said Trustees nor their Successors shall not by deed or otherwise dispose of any part or portion of the Estates, real or personal, which may be vested in the said Corporation; nor Mortgage nor Pledge the same for payment of any Debts by them Contracted to any person or persons whomsoever, unless the same shall be done with the consent of two thirds of the regular members of the said Corporation.

See Mother African Union First Colored Methodist Protestant Church v. Conference of African Union First Colored Methodist Protestant Church, 1991 Del. Ch. LEXIS

*90, *6, Del. Ch., C.A. No. 12055, Jacobs, V.C. (May 15, 1991), aff'd, Del. Supr., 633 A.2d 369, cert. denied, 510 U.S. 1025, 126 L. Ed. 2d 595, 114 S. Ct. 637 (1993).* **[*37]**

n53 Paragraph 299 of The Doctrines and Discipline of the Methodist-Episcopal Church of 1892 instructed churches to incorporate and to hold title to property in the corporate name.

Before any real estate is purchased for either Church, Parsonage, or other purpose, let the Society, in all States and Territories where the statutes will permit, first incorporate. Let the articles of incorporation provide that the Society shall be subject to the provision of the Discipline, and the usage and Ministerial appointments of the Methodist Episcopal Church in the United States of America, as from time to time authorized and declared by the General Conference of said Church, and the Annual Conference within whose bounds such corporation is situated, and that the secular affairs of such corporation) shall be managed and controlled by a Board of Trustees elected and organized according to the provision of said Discipline. Let such article further provide that such corporation shall have the power to acquire, hold, sell, and convey property, both real and personal. When this is done let all property acquired be deeded directly to the Society in its corporate name. (Pls.' App. at A-126).

Paragraph 303 of the Discipline also provides that when the property is no longer used for its intended purpose, the Trustees shall sell the property and turn over the proceeds to the Annual Conference. *Id. at* A-127. **[*38]**

n54 The existence of this connection is not established only by the certificates of incorporation. The Annual Minutes of

the Reports of the Presiding Elders of the Wilmington District of the Methodist Episcopal Church identify numerous grants to East Lake from 1889 to 1913. *See* Supplemental App. to Pls.'/Third-Party Defs.' Opening Br. in Supp. of their Mot. for Summ. J. at SA-140-47 [hereinafter Pls.' Supp. App.]. *See also id. at* SA-135 (Pls.' Supplementation of Discovery Responses, Response 16); *id.* at SA-138 (further supplementing answers); App. to Defs./Third-Party Pls.' Open. Br. in Supp. of its Mot. for Summ. J. at 121 (East Lake's Order of Worship for its 100th Anniversary Sunday noting donations from Boards or Societies associated with the Wilmington Conference) [hereinafter Defs.' App.].

n55 Discipline P 316 (1904).

n56 *See* Defs./Third-Party Plaintiffs' Ans. Br. in Opp'n to Pls./Third-Party Defs.' Mot for Summ. J. at 12. Defendants also allege that no representative of the United Methodist Church, founded long after East Lake was incorporated, has standing to assert a claim to East Lake's property. However, Defendants admit that the organization identified in East Lake's certificates of incorporation was a predecessor of the United Methodist Church. *See* Defs./Third-Party Pls.' Open. Br. in Supp. of its Mot. for Summ. J. at 4 [hereinafter Defs.' Open. Br.].

n57 *See* Defs.' App. at 202-05 (mortgage dated Mar. 22, 1928).

n58 *See id. at* 191-93 (deed dated July 1, 1980) and 42-45 (Pls.' Answers to Interrogatories).

n59 Defendants contend that a mortgage in the amount of $ 45,000 was satisfied in 1960. The only documentation in support of this allegation, however, is a church bulletin from East Lake's 100th Anniversary Sunday *(see* Defs.' App. at 121), and defendants admit that a title search fails to reveal such a mortgage. Defs.' Open. Br. at 5.

n60 *See* Pls.' and Third-Party Defs.' Open. Br. in Supp. of their Mot. for Summ. J. at 9-10 [hereinafter Pls.' Open. Br.]. Defendants assert that East Lake has incurred a more recent mortgage in the amount of $ 65,000 dated June 29, 1995, and held by defendant Naomi Bailey. *See* Defs.' App. at 196-201. The mortgage in favor of Naomi Bailey was signed on behalf of East Lake by her sons, John and Vernon Bailey, and notarized by John's wife, Janet Mae Bailey. All four of these parties are defendants in this action. **[*43]**

n61 Thus, this case is fundamentally different from *African Methodist Episcopal Church, Inc. v. John Wesley United Church, Inc., 1994 Del. Ch. LEXIS 228,* Del. Ch., C.A. No. 1167-K, Allen, C. (Nov. 2, 1994) where the Court noted that the Discipline of the parent church required property to be held in its name and that the local church had refused to title the property in the parent church's *name. See 1994 Del. Ch. LEXIS 228,* *19-20.

n62 It is clear, however, that East Lake has had difficulty paying the apportionments and has failed to pay the apportionments in full since 1988 even though the apportionments have been greatly reduced by the United Methodist Church. Pls.' Supp. App. at SA-137.

n63 *Id.* at SA-109, SA-114, SA-117, SA-121.

n64 East Lake's newsletter published just after the discontinuance reported that defendant trustee John Bailey stated to the Annual Conference just after it voted to discontinue East Lake "that East Lake had paid their appointments and that the church wanted to remain Methodist." Pls.' Supp. App. at SA 129 to SA-130 (East Lake News June 15, 1995). A short time later the Newsletter reported that the United Methodist Conference had "discontinued Eastlake illegally." *Id.* at SA-131 to SA-132 (East Lake News July 1995). **[*45]**

n65 *See id. at* SA-96 to SA-97 (Deposition of John W. H. Bailey, III), SA 106 to SA-107 (Letter dated July 10, 1997, from David A. Ullrich, Associate General Counsel, The United Methodist Church to Thomas J. Eastburn, describing conditions under which logo may be used and providing a copy of their internet web page.)

n66 Defendant Vernon C. Bailey considers the United Methodists to be "[a] group of so-called liberal sodomites." Pls.' Supp. App. at SA-83. John W.H. Bailey "judged" the United Nations Children's Fund, an organization that the United Methodists support, to be a "liberal communist" organization. *Id.* at SA-87. Moreover, he believed that East Lake was "a church that stood for prohibition, against abortion, against homosexuality, and all those things that United Methodists are taking up with wholeheartedly." *Id.* **[*47]**

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functioning as a United Methodist church," and that the difficulty between the Baileys and the United Methodist Church was caused by the failure of the "Conference to hold the church accountable." *Id.* at SA-148 to SA-149 (Letter dated Aug. 6, 1991, from Rev. Mark M. Pruett-Barnett, East Lake Church to Rev. Dr. J.T. Seymour, District Superintendent, the Wilmington District, The United Methodist Church).

n68 *See* Pls.' Supp. App. at SA-46 (Defs.' Responses to Pls.' Interrogatories, No. 4 ("By virtue of the deconsecration as alleged in the Complaint, East Lake is no longer a church bound by the Book of Discipline. (first emphasis added)).

n69 Because the implied trusts arose at the time of receipt of the properties, Defendants' claims based on the statute of limitations and statute of frauds necessarily fail, and I consider these claims no further. In addition, I find no merit in Defendants' allegations that the Conference, by failing to obtain a proper opinion of counsel, failed to follow the Discipline and that, therefore, the discontinuance was ineffective. Moreover, I note that this defense was not raised in Defendants' answer.

n70 It is unclear what effect this ruling will have on the several lawsuits filed by the Baileys in this Court (C.A. No. 14395), the Superior Court (C.A. No. 97C-06-255), and the United States District Court for the District of Delaware (C.A. No. 97-383 RRM).

EAST LAKE METHODIST EPISCOPAL CHURCH, INC., a Delaware corporation and a Delaware Religious corporation; JOHN W. H. BAILEY, VERNON G. BAILEY, JR., MAE BAILEY, RUTH HARRIS, and NAOMI BAILEY, Defendants/Third-Party Plaintiffs Below, Appellants, v. TRUSTEES OF THE PENINSULA-DELAWARE ANNUAL CONFERENCE OF THE UNITED METHODIST CHURCH, INC., a corporation of the State of Delaware, Plaintiffs Below, Appellees, and THOMAS J. EASTBURN, ESQUIRE, R. TAYLOR CLOUD, SUSAN KEIRN KESTER, MARK M. PRUETT-BARNETT, JAMES T. SEYMOUR and JOHN HOLDEN, Third-Party Defendants, Below Appellees.

No. 158, 1998

SUPREME COURT OF DELAWARE

June 9, 1999, Submitted

June 30, 1999, Decided

JUDGES:
Before VEASEY, Chief Justice, WALSH, HARTNETT, and BERGER, Justices and COOCH, Judge, * constituting the Court en Banc.

ORDERBY:
WALSH

ORDER:

This 30th day of June, 1999, the Court having ocnsidered the appellants' motion for reargument dated June 9, 1999, and it appearing that the motion is without merit,

NOW, THEREFORE, IT IS ORDERED that the appellants' motion and the same hereby is, DENIED.

BY THE COURT

WALSH, Justice.

* Appointed pursuant to Art. IV, § 12 of the Delaware Constitution and Supreme Court Rules 2 and 4.